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Vol. 5



LORD LYTTTELTON'S

HISTORY

OF

KING HENRY II.

VOL. V.

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PHYSICS



THE
H I S T O R Y
OF THE LIFE OF
KING HENRY THE SECOND,
AND OF THE AGE IN WHICH HE LIVED,
IN FIVE BOOKS:

TO WHICH IS PREFIXED,
A History of the Revolutions of England
From the Death of EDWARD the Confessor
To the Birth of HENRY the Second:
BY GEORGE LORD LYTTELTON.
THE SECOND EDITION.
V O L. V.



LONDON,
Printed for J. DODSLEY, in Pall-Mall.
M D C C L X X I I.

ERRATA in BOOK IV.

Page. Line.

- 6. 7. from the bottom, instead of *afterwards* read *afterwards*.
- 7. 12. instead of *as far a* read *as far as*.
- 26. 12. from the bottom, instead of *tile* read *title*.
- 38. 9. from the bottom, instead of *their* read *there*.
- 52. 6. from the bottom, before *Gothrick* insert *of*.
- 57. 3. from the bottom, leave out *which*.
- 102. 17. leave out the second *and*.
- 139. 13. before *the* insert *of*.
- 183. 7. before *motives* leave out *on*.
- 184. 16. instead of *subesquent* read *subsequent*.
- 218. 6. instead of *re-sentments* read *resentments*.
- 242. 13. leave out the second *not*.
- 255. 13. instead of *cnosferences* read *conferences*.

False Stopping which hurts the Sense.

- 37. 13. from the bottom, after *force* put a *comma* instead of a *semicolon*.
- 126. 14. from the bottom, after *merit* instead of a *period* put a *semicolon*.

NOTES.

- 352. 4. from the bottom, for *wnich* read *which*.
- 364. 2. from the bottom, for *particulaaly* read *particularly*.

APPENDIX.

- 404. 9. from the bottom, for *palcitis* read *placitis*.
- 406. 2. from the bottom, for *pugnam* read *pugnum*.

Marginal Reference.

- 111. instead of *Nribuegensf.* read *Neubrigenf.*

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THE

HISTORY

OF THE

LIFE

OF

King HENRY the Second.

BOOK IV.

WHEN the king was informed that BOOK IV.
 Reginald de Fitzurse, Hugh de Mor-
 ville, Richard Brito, and William A. D. 1171.
 de Tracey, had suddenly left his court, with Vit. S. T. præ-
 an intention to go, without his leave, into fix. Epistolis
 England, (which he was apprised of the morn- de Gestis post
 ing after their departure) he apprehended some Martyrium,
 mischief, and dispatched immediate orders, to all c. 9.
 the sea-ports of Normandy, that they should be
 stopt and brought back to the castle of Bure,
 where he was keeping his Christmas: but, un-
 happily, they had found the wind so fair to carry
 them over, that before his messengers, with Ibidem, p.
 the utmost haste they could make, were able 120, 143, 144.
 to get thither, they had all past the sea. After Stephanides,
p. 78, 79.

BOOK IV. endeavouring to prevent any violence being
 A. D. 1171. used, by these gentlemen, against Becket, without a proper warrant of legal authority, he resolved, by the advice of a council of lords, which he had summoned on hearing the complaints laid before him by the archbishop of York, to send instantly into England his chief justiciary of Normandy, Richard de Humet, with orders to the young king for the arresting of Becket, if that prelate would not yield to what should be required of him on the part of the crown. This lord arrived in England before the murder was committed, and as soon as he landed dispatched Hugh de Gundeville and William Fitsjohn to the palace at Winchester, where the young king then resided, with directions to take there some knights of the household, and go with them to Canterbury, as secretly as they could, that their orders might be executed without any opposition; while he himself had the care of diligently guarding the coasts and sea-ports, lest Becket, on some notice of what was intended, should fly out of the kingdom. These measures appear to have been well concerted; but, before they could take effect, the blow was struck, by which the justice of the crown was prevented, the reputation of the king was foully stained, and his affairs were more embroiled, than they could have been by any act, however outrageous, of the living archbishop. The manner, the time, the place, all the circumstances of the assassination, must have aggravated the
 guilt

Stephanides,
 p. 90.

guilt and encreased the horror of it in the minds of the people. Yet no tumult ensued in any part of the kingdom! No man sought to take vengeance on any of the murderers, or even to bring them to justice! After they had done their bloody deed, they ransacked the archiepiscopal palace at Canterbury, delivered all the papers and writings they found there to Ranulph de Brock, that he might carry them to the king in Normandy, and divided the other spoils among themselves, if we may believe some contemporary writers of Becket's life: but though this is affirmed in a private letter from one of them to the bishop of Poitiers, I cannot easily think that persons of such rank would add rapine and robbery to assassination. When they had executed all they thought proper to do, they left Canterbury and passed the night in the country; but the next morning they again assembled in arms without the walls of the city; at which the monks were alarmed, and apprehending some outrage against the primate's dead body made haste to inter it in the church. Nothing was done to disturb it; but soon afterwards the four knights departed out of Kent, and, without even endeavouring to see the young king, or any of his ministers, went together to a castle which belonged to Hugh de Morville, at Knaresborough in Yorkshire, where they stayed many months, *not daring* (says Benedict abbot of Peterborough) *to return to the court from whence they came*: a strong proof that their

BOOK IV.
A. D. 1171.

Vita S. T.
præfix. Epist.
tollis, c. 20.
Epist. J. Sarisb.
286.

Joh. Sarisb.
Epist. 286.

Vita S. T.
præfix. Epist.
c. 22.
Epist. Joh.
Sarisb. 286.

Benedict.
Abb. ad ann.
1171.

BOOK IV. master had not given them any orders to do
 A. D. 1171. what they did, and that, instead of expecting
 any recompence from him, they feared his dis-
 pleasure.

Epist. 79. l. v. We learn from a letter which the bishop of
 e Cod. Vatic. Lisieux wrote to the pope, that Henry, on
 receiving the first account of the murder, broke
 out into loud and passionate lamentations;
 then appeared to be stupefied, then more im-
 moderately renewed his complaints, "*chang-*
 "*ing* (says the bishop) *his royal majesty for*
 "*sackcloth and ashes, and during the course of*
 "*three days admitting no comfort, but seeming*
 "*resolved to destroy himself by the excess of his*
 Hist. Quadri- "*sorrow.*" On the fourth day he was roused
 part. l. iv. de by the pressing exhortations of his nobles and
 Gestis post prelates, who prevailed upon him to assemble
 Martyrium, the lords of his council, and consult with
 c. 5. edit. them on the measures it would be proper to
 Paris, ann. take in this emergency. By their advice the
 1495. abovementioned letter from the bishop of Li-
 Epist. 59. sieux was written to the pope, and it was re-
 l. v. solved that an embassy should be sent to his
 e Cod. Vatic. Holiness as soon as possible. Henry also dis-
 Vit. S. Thom. patched two of his chaplains to England, with
 prefix. Epist. orders to inform the convent of Canterbury
 p. 143. of his grief for Becket's death, and abhor-
 rence of the murder. They urged particularly
 his endeavours to stop the four knights as soon
 as he knew of their having left his court, and
 declared, in his name, that, lest the monks
 should conceive unjust suspicions of him, this
 was notified to them; but, if he had con-
 tracted

tracted any guilt, by any construction of the words he had spoken in his anger which encouraged the assassins in their wicked enterprise, it would best be expiated by the prayers of that confraternity. They added, "that he commanded the archbishop's corpse to be honourably buried: *for, though, when living, that prelate had been his enemy, yet he would not prosecute him, when dead, but remitted to his soul whatever offences he had committed against him and against the royal dignity.*"

From these last words it appears, that Henry continued to think of Becket's behaviour as he had justly thought before, notwithstanding the sorrow he expressed for his murder; and certainly in these sentiments there was no inconsistency. The bad effects he foresaw from so unhappy an end of his disputes with that prelate fixed on his mind such a gloom, that, till forty days had passed over, he abstained from all diversions, all exercise, and all business; he heard no causes, he received no petitions from his subjects; but remained solitary within the walls of his palace, often sighing, and repeating to himself these words, *Alas! alas! that this mischief should have happened!*

In the mean time Becket's friend and Alexander's legate in France, the archbishop of Sens, wrote to Alexander a letter full of rage against Henry, as the murderer of Becket: so did also the earl of Blois and Louis himself. The last called on the pope "to unsheath the sword of

BOOK IV. “*Peter, that it might signally avenge the blood*
 A. D. 1171. “*of the martyr of Canterbury, which, not so*
 “*much for itself as for the catholick church,*
 “*demanded vengeance.*” But the archbishop
 of Sens, without even waiting to receive the
 pope’s answer, desired to begin the inflicting of
 that *vengeance*. For having, not long before,
 been ordered by Alexander to put under an in-
 terdict all the dominions of Henry in France,
 if that king did not execute his agreement with
 Becket, he now required the archbishop of
 Rouen, who had received the same mandate, to
 join with him in that act. But the Norman
 prelate declared, *he would do nothing to aggra-*
vate his master’s affliction, and very prudently
 interposed an appeal to the pope. Yet the
 other, by virtue of a clause in the mandate,
 which authorised either of them singly to pro-
 ceed in the due execution thereof, if his col-
 league could not, or would not, concur with
 him therein, took on himself to pronounce the
 sentence of interdict, and enjoined the archbi-
 shop of Rouen, together with all the other
 bishops of Henry’s territories in France, to see
 it obeyed. But to this injunction no regard
 was any where paid.

Immediately afterwards Henry’s ambassadors
 to the pope set out on their journey, and among
 them, as head of this very important embassy,
 the archbishop of Rouen: but, before he had
 past the French confines, finding himself quite
 unable, from his age and infirmities, to bear
 the fatigue of travelling any further, he re-
 turned

Epist. 82.
 l. v.

Benedict.
 Abb. t. i.
 p. 20. Hove-
 den, Ann. pars
 ii. f. 301.
 Epist. 83, 84.
 l. v.

turned to his fee. The others went on, but proceeding very slowly, by reason of the difficulties which the season of the year and the passage of the mountains occasioned, they thought it necessary that one of them should be dispatched before the rest; which commission was assigned to Richard Barre, a most zealous and diligent servant of Henry, who willingly undertook it. The bishops of Worcester and Evesham, the Lord Robert de Neubourg, and four others of a rank inferior to these, having come as far as Sienna, were detained there some days, because from thence to Frascati, where Alexander then resided, all the roads were infested by the troops of a nobleman of the imperial faction.

Impatient of this delay, which they feared would be hurtful to the affairs of their master, the four inferior ministers left the city by night, and passing through unfrequented ways, over the tops of the mountains, with much labour and great danger arrived at Frascati. There they found Richard Barre, who gave them a very disagreeable account of the temper of the court; Alexander having refused to admit him to his presence, and none of the cardinals having shewn him hitherto the least mark of regard. Nor were they themselves much better used: the pope would not see them; till, after long waiting and many humble entreaties, audience was granted to two of them, less suspected than the others of enmity to Becket, namely, the abbot of Valasse and the arch-

BOOK IV.
A. D. 1171.

Epist. 33. l.v

BOOK IV. deacon of Lisieux. But, even on their first
 A. D. 1171. salutation of the pope in the name of their
 master, the clamours of the whole assembly
 interrupted and stopped them, *as if* (to use
 their own expression to the king on this sub-
 ject) *the very mention of his name had been to*
that pontiff an abomination. Yet in the even-
 ing, they secretly obtained of his Holiness a
 Epist. 83, 84. private and quiet hearing. Here they freely
 l. v. set forth the many great benefits conferred by
 Henry on Becket, and the many intemperate
 and ill-timed acts which had been done by
 that prelate against his royal dignity, in order
 to excuse the transport of passion, which they
 confessed had drawn from him some rash words,
 from whence occasion had been taken to com-
 mit the murder: but that he had given any
 order for the committing of it, or that his will
 had concurred in it, they absolutely denied.

These things they repeated to his Holiness
 the next day before all the cardinals; in which
 Epist. 80, l. v. consistory two monks, who had been chap-
 lains to Becket, and whom the archbishop
 of Sens had sent to the pope with private
 instructions, were allowed to plead against
 them. What answer the pope made we are
 not told; but it appears that they found the
 credit of their adversaries so superior to theirs,
 that they almost despaired of success.

Indeed there was great cause for such de-
 spondency on their part; as, besides the many
 other reasons which gave the see of Rome a
 most interesting concern in the person of Becket,

its own dignity was immediately and grievously affected by the murder of that prelate, who at the time of his death was invested with the character of its legate in England. Nor could they easily make the pope believe, that any servants of Henry would have dipped their hands in the blood of the primate of England, and a minister representing the sovereign pontiff, without a positive and express command from their master. Arduous therefore was the task to clear that prince of this deed before a judge so offended, and so exasperated against him; especially as the passions of the court of Rome were inflamed by those of the king of France, whose friendship and protection were necessary to Alexander against the emperor and his party.

The Thursday before Easter, on which day Epist. 83. l. v. it was customary for the pope to excommunicate all notorious offenders, was now nearly approaching; and Henry's ministers were alarmed by intelligence given to them, that his Holiness would include their master in the censures which he should then fulminate. On consulting with those cardinals who were most the king's friends, and imploring them to discover the intentions of the pontiff, they were assured that a resolution was immutably taken to excommunicate the king by name, to put all his dominions, not only in France, but in England, under an interdict, and to confirm the sentence past, against his bishops, by Becket, a little before that prelate's death. For the preventing

BOOK IV. preventing of so great and so imminent a
 A. D. 1171. danger, and by the advice of their patrons in
 the sacred college, they thought it necessary
 to go beyond their instructions, and to notify
 to the pope, that the king in this affair
 would submit to his mandates; which declaration
 (they said) they were impowered to confirm
 by an oath in his presence, and added, that
 Henry would personally take one to that effect.
 This offer was accepted; they took the oath
 in the consistory, on the day they so much
 dreaded; and the pope was content with only
 excommunicating, by a general sentence, the
 murderers of Becket, and all who *advised*, or
abetted, or *assented to their crime*, or who should
 knowingly receive or harbour them in their
 lands.

Epist. 84. l. v. Soon after Easter the three embassadors from
 Henry, who had stayed behind at Sienna, came
 to Frascati. They refused the oath taken by
 the other ministers of that prince: for which
 reason the pope, not only confirmed the sentence
 of interdict which the archbishop of Sens
 had laid on Henry's dominions in France, but
 enjoined that king to abstain from entering any
 church. Yet he concluded with saying, he
 would send to him legates, to the intent *that*
they might see and know his humility. This
 promise was of moment, as it held forth a
 beginning of negotiation; and soon afterwards,
 by the intervention of some of the cardinals,
 and (as it was said in those times) of a great
 sum of money, every thing that appeared
 hostile,

hostile, or severe against Henry, was mitigated or stopt. The pope, who just before had ratified the sentence of excommunication, which Becket had past against the two bishops of Salisbury and London, sent a mandate to absolve them under easy conditions, and wrote himself to the king (a favour obtained with many urgent supplications by the ministers of that prince) *to invite him to humility*; so that all was composed till the legates *à latere*, who were not yet appointed, should come into Normandy; the execution of the interdict on Henry's territories in France remained suspended, and things evidently tended to a reconciliation.

While Henry's ministers at Frascati were doing him this good service, John of Salisbury, who after the assassination of Becket had continued at Canterbury, and many monks of the convent in confederacy with him, had recourse to a method of raising the character of their late friend and patron, which the ignorance of those times and propensity to believe the most incredible fictions rendered very successful. They gave out that such miracles were wrought by the intercession of this martyr and saint, as equalled or even exceeded the greatest contained in the legends of the church. At first, some of the ministers about the young king, apprehensive that disturbances might be excited among the common people, if this imposture went on, endeavoured to stop it by the royal authority: but, as they did not proceed

BOOK IV.
A. D. 1171.

Hoveden,
Annal. pars ii.
f. 302. ad
ann. 1171.
Epist. 84. l.v.
ut supra.

Johan. Sarisb.
Epist. 286.

BOOK IV. ceed to enforce the prohibition of spreading
 A. D. 1171. these reports by punishing the offenders, it
 proved ineffectual, and the delusion increased
 still more and more. John of Salisbury, in a
 letter to the bishop of Poitiers, had the assurance
 to affirm, upon his own knowledge,
*“ that, as well at the tomb of the primate, as
 “ at the place where he was slain, and before
 “ the great altar where his corpse was laid
 “ out, paralyticks were recovered, the blind
 “ saw, the deaf heard, the dumb spake, and
 “ the lame walked.”*

Ibidem.

If the king had been excommunicated for the murder of Becket, or if the pope had put his kingdom under an interdict, the activity of the monks in propagating these tales, and the simplicity of the laity in receiving their testimony without examination, might have done him great mischief: but the general expectation that he would be absolved when the legates should arrive, which naturally arose from the respite granted to him and other marks of a favourable disposition towards him appearing in the pope, checked and weakened the effects of this engine of sedition so artfully raised against him by his enemies in this kingdom, to which he returned out of Normandy on the seventh day of August of this year eleven hundred and seventy-one, and where he found all things quiet.

Fortune now offered to him a fair opportunity, which his wisdom gladly seized, of presenting a new object to the attention of
 the

the publick, and shewing himself to his subjects in a very different light from that of a penitent, with all the majesty of a prince enlarging the bounds of his hereditary empire by the acquisition of a great and very ancient kingdom, which, though far more desirable than any other to England, had not ever, hitherto, been under the sceptre of any English monarch. He resolved to add Ireland to his regal dominions, and hoped to do it without resistance or bloodshed, by the terror of his arms, and from the general disposition of the Irish themselves to submit to his government. But, before I relate the particulars of his conduct in this important undertaking, it will be necessary to premise a short view of the history and state of that island, from the earliest times down to those, when the concurrence of many extraordinary events invited him thither.

The first accounts of the Irish, delivered by the Greeks, agree in representing them as a most savage people: nor did the Romans, who after the conquest of Britain had the means of obtaining a more perfect knowledge of them, contradict that description. Tacitus says, that the nature and the manners of the Irish differed not much from the British: and he adds, that the coasts and harbours of Ireland were better known than those of Britain, by a greater commerce and resort of merchants to them. The character therefore of those who inhabited

bited the maritime parts of that island could not be unknown; and if (as he affirms) they resembled the Britons, they must have been very barbarous. The same historian informs us, that he often had heard his father-in-law, Julius Agricola, say, Ireland might be subdued, and kept, by one Roman legion and a few auxiliary troops. That commander had with him one of the kings of the Irish, whom a sedition had lately driven out of his country, and from whom, doubtless, he had gained, as well as from the number of merchants trading thither, a particular information of the state and strength of the island, which he was preparing to invade when the jealousy of Domitian recalled him to Rome. If he had been permitted to pursue his enterprise, we may reasonably believe, on the credit of his judgment, that he would not have failed of success. Perhaps he trusted in part to the divisions of the Irish among themselves. Julius

C. 36. p. 62.
epit. Basil.
1538.

l. i. c. 2.

See also Usher,
Eccles. Brit.
Antiquit.

c. 16.

De Excidio
Angliæ, edit.
Gale, p. 12,
13.

Solinus, who wrote in the second or third century, describes them as a nation *inhospitable and warlike, who made no distinction between good and bad actions*. Orosius, in the fifth century, calls the inhabitants of Ireland *Scots*, by which name they are mentioned in several Latin authors from the fifth till the eleventh century, and still later in some. Gildas, a learned British monk, who wrote in the year five hundred and sixty four, speaks of the Scots and the Picts, who conjointly in his times made war on the Britons, as differing in

in some of their manners, but agreeing in a cruel thirst of blood and a barbarous mode of dress. Yet all these accounts are rejected by modern Irish writers, as coming from strangers ill informed, or hostile to their nation. And, certainly, if they have any authentick relations from contemporary historians of their own country, the authority of such must prevail over these, and from them chiefly we must learn the history of Ireland as far back as they go. Mere tradition, indeed, if carried higher than the memory of a few generations, deserves little regard; but the Irish affirm that their ancestors had an alphabet, not derived from the Roman, but brought over to Ireland, a thousand years before Christ, by a colony out of Spain: and we know from Strabo, a writer of the most undoubted credit, that in his time all the Spaniards had the use of letters. He likewise mentions the Turduli, or Turdetani, a people of Bætica, as the most learned among them, “*these having (as they said) written monuments of antiquity, and poems, and laws composed in verse, for six thousand years past.*” It is needless to observe how greatly they exceeded the bounds of truth in this boast: but the Tyrians, who traded, in ancient times, to their country, might have early instructed them in the art of writing; and the Carthaginians, who were afterwards settled in Spain, might have communicated to all the other Spaniards the knowledge and use of their letters. A colony there-
fore

L. iii. p. 204. /
edit. Amste-
lod. cum notis
Cassaub.

BOOK IV. fore from Bætica, or any part of the western coasts of Spain, may have brought into Ireland the Punic or Phœnician characters : but the alphabet, called by the Irish Bethluis-nion, appears to be the Roman alphabet differently arranged and reduced to the number of only eighteen letters, with the addition of some compounds, and with small variations in the form of some of the letters. One should therefore suppose that it is not very ancient, and the rather, as no Irish writing, incontestably anterior to Patrick's preaching in Ireland, has ever yet been published. Sir James Ware indeed says, that he had in his possession an old manuscript full of secret characters, called by the ancient Irish *Ogum*, in which they wrote what they meant to keep hidden or mysterious ; but of what age he took the book to be he does not inform us, nor how, if it was written in characters different from those above-mentioned, that, or others, in which this ancient cypher is found, can at present be decyphered, or could ever be understood, by any modern Irish. One may reasonably suppose, that in manuscripts written since that nation received the Roman letters from Patrick, some traditional truths, recorded before by the bards in their unwritten poems, may have been preserved to our times : yet these cannot be so separated from many fabulous stories, derived from the same sources, as to obtain a firm credit ; it not being sufficient to establish the authority of suspected traditions, that they can be

See it in Mr.
O'Connor's
Differt. on the
Hist. of Ire-
land, p. 36,
37.

Antiquit. Hi-
bern. c. ii.
sect. 2.

be shewn to be not so improbable, or absurd, as others with which they are mixed; since there may be specious as well as senseless fictions. Nor can a poet, or bard, who lived in the sixth or seventh century after Christ, if his poem is still extant, be any voucher for facts supposed to have happened before the Incarnation; though his evidence (allowing for poetical licence) may be received on such matters as come within his own times, or the remembrance of old men with whom he conversed. It is therefore safest, in writing the ancient history of Ireland, to be content with those lights, which foreign writers have given, till better evidence is produced by the Irish themselves: as, in writing that of Britain, the most judicious historians pay no regard to the Welsh or British traditions delivered by Geoffry of Monmouth, though it is not impossible that some of those may be true, but adhere to the information, which contemporary writers of other countries afford, concerning the Britons. The very learned Bishop Stillingfleet has sufficiently shewn, that the *Psalter of Cashel* is of no better credit, as to the accounts which it gives of the high antiquities of the Irish, than the British romance above-mentioned: yet on the authority of that book the greatest stress has been laid by Flaharty, Keating, and others, as containing collections of ancient chronicles composed by the bards, supervised by St. Patrick, and confirmed by the assembly of the nation at Taragh, in the reign of

See Antiquities of the British Churches; c. 5.

BOOK IV. Læogary, their first Christian monarch, with most extraordinary care to prevent any errors, or partial misrepresentations. Waiting then till better fruits of this pretended attention in the Irish legislature to the purity of their history shall have been shewn to the publick, we must seek for other guides, to discover to us, so far as it can be discovered, the state of that people, when either no authentic historical monuments existed among them, or when, from the loss of those that formerly did exist, we are equally deprived of that information which they might have afforded.

Concerning the origin of the Irish some good antiquaries have thought no difficulty occurs, because their language itself, without any other proofs, declares them to be Celts. But that ancient people spread wide, and colonies of them may have come at different times into Ireland, not only from Britain, but from Gaul, from Germany, and from Spain; so that to prove which of these is the mother country of the Irish, or whether they are not a mixed race, other testimony is wanting. From Ptolemy's map it should seem that parts of Ireland were possess'd, in the second century after Christ, by emigrants from all these several countries: but before the end of the fourth, and from thence to the age of which I write, one people is spoken of, by contemporary foreign authors, as possessing all Ireland, and distinguished from the former inhabitants of

See Ware,
c. 10.

of that isle by the new appellation of *Scots*. BOOK IV.

On the etymology of that name much dispute has arisen. Nennius, a Briton, who wrote in the year of Christ eight hundred and fifty-eight, supposes *Scoti* to be the same as *Scythæ*, and says “the most knowing of that nation had told him, that after Pharaoh and his host were drowned in pursuing the Israelites, the surviving Ægyptians were afraid that a stranger, who, having been expelled from his own dominions in Scythia not long before, had come and settled in Ægypt with a great family, should seize that realm; upon which apprehension they confederated together, and drove him out: That, after wandering about Africa two and forty years, he embarked on the Tyrrene sea, and passing by the pillars of Hercules arrived in Spain, where he dwelt many years, and where his people encreased greatly: That, one thousand and two years from the drowning of the Ægyptians in the Red sea, the posterity of this Scythian colony came from Spain into Ireland, which till then had been desert and uninhabited.”

This account is no further deserving of notice than as it shews that the Irish Scots, above nine hundred years ago, had conceived and propagated the notion of their migration from Spain so many ages before. But the circumstances of this and some later migrations, of the Scythians or Scots, from that country into

See his preface, Gale's edition, p. 93, 94. Hist. Brit. sect. 6, 7, 8, 9, 10.

BOOK IV. Ireland, as related by Nennius, are so evidently
 ly fabulous, that the credit of those who reported such absurdities to him is thereby lost. Nor is it easy to give a satisfactory reason, why, if the Scots were a people of Scythian extraction, who came into Ireland from any part of Spain, in such very early times, that name, which denoted their original country, should have been lost and forgotten during so many ages, and revived about the middle of
 I. XX. C. I. the fourth century, when (as appears by a passage of Ammianus Marcellinus) they were joined with the Picts in making war on the Britons. No notice is taken of them under that appellation in Ptolemy's map of Ireland, though he mentions the Concani, a Celtic people of Spain, as then settled in that isle. This inclines one to suppose their migration posterior to that geographer's time; but on a matter involved in so much obscurity I determine nothing. It is enough to say here, that a warlike nation called Scots had full possession of Ireland, under the government of a king, whose name was Læogary, son to Nial, or Neal, surnamed the Great, in the year of our Lord four hundred and thirty-two, when Pope Cælestine the First sent thither St. Patrick, a native of North-Britain, who in his youth had been carried a captive into Ireland, and some assistants under him, to preach the gospel to all the inhabitants of that island. Christianity had gained some little footing there, before this time, particularly in Munster; but to Patrick

trick was owing the conversion of the king and the body of the nation. The facility with which this conversion was effected is a wonderful thing, if the British Druidism was then established in Ireland; for that cruel priesthood was so interested to maintain a religion, from which they drew the immoderate degree of power they enjoyed in the state, and had such means of exciting the zeal of the people to defend their superstitions, that it is hardly credible they should suffer such a change to be made without a violent opposition, if their hierarchy had not, by some extraordinary event, been wholly overturned, or much weakened, before Patrick, or any of his fellow-labourers in the work of converting the Irish, had come within the verge of their tremendous jurisdiction. This may naturally have happened, if we suppose the Scots to have migrated into Ireland from Spain about the end of the second century: for in Spain were no Druids; that order having only obtained an establishment in the British isles and in Gaul, which last country had received it (as Cæsar tells us) from Britain; and therefore a people, unaccustomed in their former abodes to the heavy yoke of these tyrannous and bloody priests, might entirely shake it off, as soon as they had gained the dominion of all Ireland; which they had time to do between the end of the second century and the middle of the fifth. But this is only conjecture.—

BOOK IV.

See Usher on
the Religion
anciently pro-
fess'd by the
Irish and Bri-
tish.

Archbishop Usher has brought many evidences to prove, that the religion which Patrick, and some other ecclesiasticks, who accompanied him in his mission, taught to their converts, was in substance much the same with the doctrines profess'd by the reformed church of England. But it had one blemish in it from which that is exempt; I mean a great veneration and fondness for *monkery*, which, even in that age, was attended with many idle and blameable superstitions, such as sullied the purity, and dishonoured the wisdom of the genuine Christian faith. These became in later times a source of greater corruptions, which prevailed more and more, till the primitive doctrines of the Irish church were lost.

Together with the gospel the British missionaries introduced into Ireland the Roman alphabet, and a general knowledge of the Latin language. A school was formed at Armagh, which soon became very famous. Many Irish went from thence to convert and teach other nations. Many Saxons out of England resorted thither for instruction, and brought from thence the use of letters to their ignorant countrymen, the same letters which Patrick had given to the Irish. We learn from

L. iii. c. 27. Bede, an Anglo-Saxon, that about the middle of the seventh century, numbers, both of the nobles and of the second rank of English, left their country, and retired out of England into Ireland, for the sake of studying theology, or leading there a stricter life. And all these

(he

(he affirms) the Irish, whom he calls *Scots*, BOOK IV.
 most willingly received and maintained *at their*
own charge, supplying them also with books,
 and being their teachers *without fee or re-*
ward. A most honourable testimony, not
 only to the learning, but likewise to the hos-
 pitality and bounty of that nation!

Great praise is likewise due to the piety of
 those Irish ecclesiasticks, who (as we know Camd. Britan.
 from the clear and unquestionable testimony Ireland.
 of many foreign writers) made themselves the
 apostles of barbarous heathen nations, with-
 out any apparent inducement to such hazar-
 dous undertakings except the merit of the
 work. By the preaching of these men, the
 Northumbrians, the East Angles, and the Bede, l. iii.
 Northern Picts, were converted. Convents Camd. Britan.
 were also founded by them in Burgundy, Ger- Ireland.
 many, and other foreign countries, where
 they distinguished themselves by the rigid in-
 tegrity and purity of their manners; so that
 Ireland from the opinion conceived of their
 sanctity was called *the country of Saints*. But
 their real fame has been injured by the writers
 of their lives ascribing to them miracles, as ill
 invented as false; and it seems from the ac-
 counts of their panegyrist themselves, that
 the zeal of some of them about trifles was
 much too warm.

After the establishment of the Christian re-
 ligion in Ireland the history of that country
 begins to be somewhat more authentick, yet

BOOK IV. is still very full of most improbable fictions, out of which a few truths, supported by other evidence, or, at least, not contradicted, may with difficulty be culled. It appears that the family of Nial the Great, after the interruption of one reign on the death of Læogary, recovered and fixed in themselves the sovereignty of Ireland, from the year of our Lord four hundred and eighty-three to the year one thousand and two. Yet the princes of this race succeeded not to each other by right of primogeniture or proximity of blood, but by the election of the general assembly of the nation; which election, through the power and influence of those kings who succeeded to Lugad, the son of Læogary, was limited to be made out of some of the princes of the blood of Nial, called by the Irish Hy Nials, instead of being extended, as it had anciently been, to all the descendants of the Heremonian family, from which Nial sprang, and which had many more branches. At what time the Irish custom of electing a successor during the life of the reigning monarch first began is uncertain; but it is supposed to have been very ancient in Ireland; and so, doubtless, was the notion that minors or women were incapable of succeeding, or being elected. Princes therefore of full age, and able to exercise all the functions of royalty either in peace or in war, were the only competitors; but (as it commonly happens in elective kingdoms) the competition often caused civil wars

See Mr.
O'Connor's
Dissert. on the
Hist. of Ire-
land, sect. xv.
and other Irish
writers. See
also Ware,
Antiquit.
Hibern.
Spenser, and
Camden.

wars in the nation; for the preventing of BOOK IV.
 which, about the year seven hundred and O Conor,
Dissert. p. 221,
 thirty-four, a rule of alternate succession was
 established in the two most potent branches
 of the Hy Nial race, Clan Colman and Ty-
 rone: but the resentment of those whom this
 partition excluded, and an impatience to reign
 in the successor chosen by the power of a
 faction, were always troublesome and often
 fatal to the monarch on the throne, even at
 times when no pretence of a publick grievance
 existed. In the long catalogue of those kings Ware, c. iv,
 we find very few who were not killed in
 battle by the swords of rebels, confederated
 against them with foreign enemies, or traiter-
 ously murdered, or compelled to save their
 lives by resigning their crowns, and retiring
 into convents. It sometimes happened, when
 the strength of two competitors for the so-
 vereignty was thought nearly equal, that
 they ended the dispute by both reigning toge-
 ther: and, in the usual course of things, Ire-
 land, besides the chief monarch, who governed
 the whole island, had five provincial kings,
 who all derived their descent, or were sup-
 posed to derive it, from the first princes or
 leaders of the Scots. The power of these was
 subjected (so far as laws could subject it) to
 the sceptre of the monarch, but, in fact, they
 were often uncontrollable by it, and more his
 rivals than subjects.

Anciently Ireland (as we learn from Giral-
 dus Cambrensis) was divided into five almost
 equal

BOOK IV.

O Conor,
Dissert.
Ware, c. iv.

equal portions, namely North and South Munster, Leinster, Ulster and Conaught : but afterwards Meath, which, in that partition of the country, had been annexed to the monarchy of the whole island, as a royal demesne, was separated from it, and given to a prince of the Hy Nial family ; in consequence of which it became one kingdom of the pentarchy ; another being composed of the two Munsters united. There was also a great number of lesser districts or lordships, contained within these five realms, and governed by chiefs of septs or clans, some of whom were called kings, and all exercised a kind of regal authority over their own people. In each dynasty, great or small, the prince or chief was elected under the same regulations as the supreme monarch ; the rule of succession being called *the tanistry law*, because the successor, so appointed in the life-time of the person who governed the seigniory, bore the title of *Tanist*. What confusion must arise from such a multitude of small elective states in one realm it is needless to observe. The reason of this institution, and likewise of the exclusion of females and minors from a capacity of inheriting any territory of this nature, was, that as in the whole realm, so in every single district, there might be always a ruler of sufficient abilities to protect the people there against hostile incursions. From the apprehension of these they were never wholly free ; as their family-quarrels descended, with implacable

placable animosity, to the latest posterity, and when revenge did not arm the neighbouring sept against each other, the desire of rapine did: nor was the power of the five provincial kings strong enough, in their several dominions, to curb the violence of inferior princes and chieftains; nor could that of the supreme monarch restrain those kings from continual wars among themselves, or from civil commotions in each particular realm. The constitutional remedy against these disorders was a triennial convention of the states of Ireland, the decrees of which comprehended the whole authority of the nation: for all their writers agree that such assemblies were coæval with the monarchy in that island: but the best measures there taken were often defeated by combinations of factions; and as the several chieftains, particularly those at the head of great provinces, grew more and more independent, provincial assemblies were set up in opposition to the national senate, and the authority of the latter was gradually diminished.

O Conor,
Dissert. p. 64,
268.

One cause of the weakness of the sovereign power in Ireland was the separating from it Meath, the ancient demesne of the monarch; there not remaining that due proportion of wealth, which was necessary to maintain the dignity of the crown, and draw respect from the nobles. The royal revenues of the monarch, after this alienation, consisted in tributes, not of money, but cattle, and other necessaries of life paid to him in kind. The inferior

BOOK IV. inferior kings had such tributes, which their subjects paid to them, and likewise lands in demesne. The lesser chiefs were supported, partly by lands assigned to them in their several districts, and partly by tallages, occasionally imposed by them on their tenants, or people under their rule, at their own will and pleasure. One of these was a demand for themselves and their retinues to be entertained at free-cost in the visitations and progresses which they frequently made through their septs. But this and other exactions, which it will not be necessary to particularize here, were softened to the Irish by the generous hospitality, which their petty princes and lords continually exercised in their own dwellings: for, whatever they drew, at any time, from the people, they freely laid it out there; and their strength and safety depending, in their daily quarrels with each other, on the affection of those who acknowledged them for their chiefs, some moderation and lenity in the exercise of their power was necessary for them; and a sense of their own interest would operate as a check, where legal restraints were too weak, on their avarice, or other irregular passions.

Sir John Davies. Ware.

The inferior tenancies, below the degree of a taniest, were partible, by the custom of the Irish gavelkind, among all the males of a sept, the spurious not excepted. And if, after such a partition, any one of them died, his proportion was not shared among his sons,

nor

nor did it go by inheritance to the next of BOOK IV.
 kin, but a new division was made of all the
 lands of the sept, in equal parts, by the chief;
 a practice very different from the Welsh or
 Kentish gavelkind, and of which the conse-
 quence was, that the landed property of the
 commons was perpetually changing from one
 man to another.

Not only the inferior provincial kings, but Ware
 all the nobles or chieftains had, in their sever-
 al districts, hereditary judges, called by the
 Irish *brebors*, who administered justice for
 them by the rules of a law, concerning
 which Sir John Davies, attorney-general of
 Ireland in the reign of James the First, has
 delivered this opinion: "If we consider the
 " nature of the Irish customs, we shall find
 " that the people which doth use them must
 " of necessity be rebels to all good govern-
 " ment, destroy the commonwealth wherein
 " they live, and bring barbarism and desola-
 " tion upon the richest and most fruitful land
 " of the world. For, whereas by the just
 " and honourable law of England, and by the
 " laws of all other well-governed kingdoms
 " and commonweals, murder, manslaughter,
 " rape, robbery, and theft are punished with
 " death; by the Irish custom or *brebon* law,
 " the highest of these offences was punished
 " only by fine, which they called an *ericke*."
 The same writer has elsewhere explained more
 at large the manner of laying this *ericke*, and
 the cases in which it was taken. His words,
 I which

which I transcribe, as of higher authority than mine would be, are these: "For offences and
 " matters criminal, none was of so heinous a
 " nature that it was capital; for treason against
 " the chief lord and murder were fineable: the
 " fine they called an *ericke*, which was assessed
 " by the lord and his brehons. In case
 " of treason the lord had all the fine; in case
 " of murder the lord had one moiety, and
 " the kindred of the party slain the other moiety;
 " so as they never forfeited their possessions
 " or their lands for any offence. However
 " their lands were seized by the lords for their
 " fines, until the same were levied there upon,
 " and then restored. Rape was fineable in like
 " sort, but theft deserved praise and reward,
 " if the stealth were brought into the country,
 " because the lord had a share, and the country
 " thereby became the richer. But the theft being
 " committed in the country and carried out, if the
 " thief were apprehended before his friend made
 " offer of his fine, he was commonly punished
 " with death. But the lord in that case might
 " take an *ericke*, if he would. The brehons,
 " assisted by certain scholars, who had learned
 " many rules of the civil and canon law, rather
 " by tradition than by reading, gave judgement
 " in all causes, and had the eleventh part of
 " the thing adjudged for their fee, and the chief
 " lord's marshall did executions."

Having also described the Irish customs of
 tanistry and gavelkind agreeably to the account

count which has been given of them here, he thus concludes: "These are the principal rules and grounds of the *brehon* law, which the makers of the statutes of Kilkenny did, not without cause, call *a lewd custom*; for it was the cause of much lewdness and barbarism. It gave countenance and encouragement to theft, rapine, and murder; it made all possessions uncertain; whereby it came to pass that there was no building of houses and towns, nor education of children in learning or civility, no exercise of trades or handicrafts, no improvement or manuring of lands, no industry or virtue in use among them, but the people were bred in looseness and idleness, which hath been the true cause of all the mischiefs and miseries in that kingdom."

On these passages I observe, that if the natural effects of the Irish or *brehon* law, which was chiefly derived from old customs, were such as this great lawyer and able statesman sets forth, we have no grounds to suppose, that the ancient state of Ireland, when those customs were less mixed with principles drawn from any foreign jurisprudence, could have been better than that of which he has given so unpleasing a picture.

Causes were tried by the *brehons* in the open Ware, c. viii. air, and most frequently on the tops of hills; as they had been by the druids: and in such places the Irish continued also to hold their provincial assemblies, where all differences or com-

BOOK IV. complaints between district and district, and even private causes of extraordinary importance or difficulty, were heard and determined. To these meetings they came armed, some on horseback and some on foot, as was usual among all the ancient colonies of the Celts in their publick consultations.

Topograph.
Hibern. c.
xvi.

Bede, l. i.
c. i.

Giraldus Cambrensis relates, that, during the reign of Nial or Neal the Great, six sons of Mured king of Ulster invaded and seized the northern parts of Britain, where a people descended from the colony which they planted, and called by the name of Scots, had continued to his time. Bede before him had said, that a colony out of Ireland, *the proper country of the Scots*, had come into Britain under the conduct of Reuda, from whom they were called Dalreudini; and had added *a third nation* to the Britons and Picts, obtaining among the latter, by consent or by force, the settlements they possessed. But the time of their coming is not mentioned by him. From other writers we learn, that the western parts of Caledonia were won from the Picts by Fergus, the son of Erk, about the beginning of the sixth century; which is a hundred years later than the death of Nial, in whose reign the first migration of the Scots of Ulster from that country, into North Britain, is dated by Giraldus. Camden cites an old manuscript which makes Fergus descend from an Irish monarch named Conair, whose third son was Carbre Riada, supposed to be the Reuda who

is

is mentioned by Bede. However this may have been, it seems a fact well-attested, that early in the sixth century a dynasty of Scots out of Ulster beganto be formed in Argyleshire and the western parts of North-Britain; remaining nevertheless in subjection to the sovereignty of the mother country, Ireland, till the year five hundred and ninety, when, by the ordinances made in a great convention of the Irish states at Drumkeat, it was freed from that dependance. About the year eight hundred and thirty-eight the whole realm of the Picts was subdued by a descendant from these princes of Ulster, Kineth the son of Alpin; since which time the name of Scotland has been given to all that portion of Great Britain subjected to this victorious king, from whom, and (according to the Irish genealogists) from the ancient monarchs of Ireland, the royal family of the Stewarts is lineally derived. The having sent forth a colony which has risen to such a height of dominion and greatness is a glory of which Ireland may justly boast; but, whether these Irish Scots and the ancient Caledonians were not originally the same people, I do not pretend to decide.

O Conor's
Dissert. on the
Hist. of Scot-
land, p. 19.

O Conor's
Dissert. on the
Hist. of Ire-
land, p. 29.

We learn from Bede, that in the year six hundred and eighty-four Egfrid, king of Northumberland, sent his general, named Berth, with an army into Ireland, and miserably wasted the country; which that historian condemns, as an unjust expedition against a people *inoffensive and most friendly to the English*.

Bede, 1. iv.
c. 26.

BOOK IV.

Berth returned the same year, without having made any settlement in the island; and the next year Egfrid died, being slain in a war against the Picts. Ireland, after his death, remained unmolested by the Northumbrian princes; but, at the end of the following century, the Danes and Norwegians, intermixed with other corsairs from the rest of Scandinavia, began to ravage its coasts; and, when several descents had been made, and great booties carried off, by different fleets of these pirates, a Norwegian leader, named Turgesse, bringing with him greater forces, established a tyranny over almost the whole island, which he exercised with intolerable cruelty and insolence till the year eight hundred and forty-five, when Melachlin, king of Meath, having taken him prisoner, ordered him to be drowned in a lake. Three years afterwards, by repeated overthrows from the Irish, the dominion of these foreigners was nearly extinguished in Ireland; yet new supplies coming to them from that inexhaustible hive, the coast of Scandinavia, they continued to wage a bloody war with the natives. The fierce spirit of their religion encreasing the natural barbarity of their minds, they turned their rage more particularly against the clergy, whom they massacred without mercy, and in hatred to them burned their books, their schools, and their convents. Among many learned men, who were driven by the terror of this persecution to take refuge abroad, none distinguished themselves more than Albin and Clement, whom the emperor Charles the Great received in his court and honoured

Ware, c.xxiv.

Usher, de Brit.
Ecclef. Pri-
mord. p. 1173.

honoured with his favour. Of the last of these it is said, by a contemporary German writer, that *through his instructions the French might vie with the Romans and the Athenians*. John Erigena, whose surname denoted his country (*Ere* or *Erin* being the proper name of Ireland), became soon afterwards famous for his learning and good parts, both in England and in France. Thus did most of the lights, which in those times of thick darkness cast their beams over Europe, proceed out of Ireland! The loss of the manuscripts which the ravages of the Pagans destroyed is much bewailed by the Irish who treat of the history and antiquities of their country, and may well be deemed a misfortune, not only to them, but to the whole learned world.

In the year eight hundred and fifty-three Ware, c.xxiv. Amlave, a prince of the royal blood of Denmark, and his two younger brothers, named Ivar and Sitrick, arriving in Ireland with a powerful army of Danes and Norwegians, all their countrymen there submitted to Amlave; and the Irish, defeated in one or two great battles, were compelled to pay him tribute. By these princes Dublin, Waterford, and Limerick were built. In the year eight hundred and seventy Amlave and Ivar, with a fleet of two hundred ships, invaded England as auxiliaries to Hinguar and Hubba, Danish chiefs; from whence they returned the next year, with many captives and great spoils, to their capital city, Dublin. Amlave dying soon afterwards,

BOOK IV.

terwards, he was succeeded by Ivar, whom the Irish annals stile *king of all the Normans in Ireland*, that is, of all the people who came thither from the North: but, their country lying also to the east of Ireland, they were likewise called Easterlings, Eastmen, or Ostmen, by

Ware, c. xxiv. the last of which names, as most usually given to them, I shall distinguish them in the course of this work. It would be tedious to mention all the changes of fortune in the war carried on between them and the Irish under different princes; the fury of which was not lessened by their having turned Christians about the year nine hundred and forty-eight, in the reign of Congal or Congelach, supreme monarch of Ireland. Eight years afterwards they defeated and slew that brave prince, by whom they had been vanquished in two preceding

Ibidem.

See it in the
British Museum.

battles. There is extant an old charter, dated from Gloucester in the year nine hundred and sixty-four, and supposed to have been of King Edgar, wherein it is said, “ that the propitious
“ Deity had granted to him, with the empire of England, to subdue to that realm
“ all the kingdoms of the isles of the ocean,
“ with their most fierce kings, as far as to Norway, and the greatest part of Ireland, with
“ its most noble city of Dublin.” The date of this charter falls in with the eighth year of the reign of king Donald the Second, who succeeded to Congal in the monarchy of Ireland; at which time Aulave was the chief of the Ostmen in that island, and stiled king of Dublin.

lin. The Irish writers say nothing of the subjection of either of them to the dominion of Edgar; and what renders the authenticity of this pretended record very doubtful, is the silence of all the ancient English historians on these boasted conquests. But the Irish speak of a civil war which the son of Congal maintained, with the assistance of Aulave, in the year nine hundred and seventy, against Donald the Second, two of whose sons, in the year nine hundred and seventy-seven, leading his army against Aulave, were vanquished and slain by that prince. Before the end of three years their father died, and was succeeded by another son, named Melachlin, who soon after his election won a memorable battle, in which perished almost all the chiefs of the Ostmen. But, instead of following his blow, and expelling the remainder of these foreigners out of Ireland, he granted to them a peace, which enabled them to recruit their broken force; and, using their aid in a war against the king of Leinster, overcame him by their arms. From this time, not considering that the temper of the Irish would better endure any vice in the character of their monarch than want of activity, he gave himself up to the pleasures of an indolent life, which so sunk his reputation, that in the year one thousand and two, the twenty-third of his reign, he was constrained to resign the monarchy of Ireland, to Brian Boro, or (as some call him) Boroume, king of Munster.

Ware, c. xxiv.

Ibidem.

This prince was the hero of the Irish in that age, having eminently distinguished his valour and good conduct in many battles he had fought against the Ostmen, and in some against his countrymen of other provinces, with whose chiefs he had quarrelled. Age had given him prudence without taking from him vigour; for though he was now little less than seventy-five years old, his mind and body retained their powers unbroken. He derived his descent, (according to the received accounts of the bards) not from Nial the Great, or from Heremon, to whose line a long-established law or custom had limited the succession, but from Heber, Heremon's brother; and asserted (with others of the provincial kings) that the race of this prince, by the original rules of the Irish constitution, were as capable of being elected to the monarchy as any of Heremon's sons, and had in fact been elected during the earliest times of their settlement in that island. So antiquated a claim was not likely to prevail against a practice of many hundred years: but, whatever doubt there might be of the goodness of the title which Brian set up, there was none of his ability to govern the kingdom; and he had in his service an army of veteran soldiers, called the tribe of Dalgais, about whose valour most incredible tales are related in some of the Irish annals, but who certainly were the best militia in Ireland. These removed all objections against his exaltation; so that Melachlin, unable and unwilling to resist a competitor of such

such strength, was content to yield to him the sovereignty of Ireland, retaining for himself the subordinate kingdom of Meath: which agreement was ratified by the states of the nation. Brian Boro, thus elected, constrained the Ostmén to give up whatsoever they held in the inland parts of the country, and also to pay him tribute; but left them masters of all the fortified towns and principal sea-ports, namely, Dublin, Wexford, Waterford, Limerick and Cork, which their predecessors had built, and from whence they continued to carry on a great trade, useful indeed to the Irish, but not so necessary as to justify the policy of this monarch in permitting them to remain possessors of those places, if he did it (as some writers suppose) from choice. His desire to force Malmorda, king of Leinster, to pay him a tribute, exacted by former monarchs, but always complained of as unjust and oppressive, drew him into an intestine war with that prince, to the general detriment of the whole Irish state. Malmorda, whose country was overrun and destroyed by the forces of Munster, made a league with the Ostmén in the year one thousand and thirteen. Brian hereupon took great pains, though he was then in the eighty-sixth year of his age, to form a confederacy of all the other Irish princes against this alliance, and for the utter expulsion of the foreigners out of Ireland. Sitric, son of Aulave, alarmed at these preparations, obtained from the Norwegians in the isle of

Ware, c. xxiv.
O Conor's
Dissert. p.
263.

BOOK IV. Man and the Hebrides a powerful aid of good troops. Thus were formed two great armies, which met and fought, in the year one thousand and fourteen, upon the plains of Clontarfe. The particulars of this battle are so differently related, that no certain account can be given of it here. The most probable seems to be, that the loss of men on both sides was very great; that Brian and his son Murrough were killed in the action or mortally wounded; and that Sitric was forced to retire into Dublin, the commander in chief of the Norwegian auxiliaries, and Malmorda king of Leinster, with many nobles and principal leaders of the Ostmen, being left dead in the field.

Ware, c. xxiv. On the death of Brian and his son, Melachlin, king of Meath, resumed, without opposition, the sovereignty of Ireland, which he had resigned twelve years before, and shewed himself worthy of it, by gaining, in the year one thousand and eighteen, a compleat victory over the confederate forces of the Ostmen and of Leinster. The loss of men in the battle of Clontarfe and in this, at the distance of no more than three or four years, extremely weakened the Ostmen: but their security lay in their walled towns, which the Irish, unprovided with battering engines, and unskilled in the methods of carrying on a siege, were unable to take, when any good defence was made. In the year one thousand and twenty-three Melachlin died, and after an interregnum of twenty years was succeeded in the monarchy

chy by Dermod Macmalnambo, king of Lein-
 ster. During the reign of this prince, in the
 year one thousand and sixty-six, Gothric
 Crovan, king of Man, subdued to his domi-
 nion the city of Dublin and a great part of
 Leinster, so far extending his power over all
 the Irish princes, that in a letter from Lanfranc,
 archbishop of Canterbury, published by Baro-
 nius, he is called *king of Ireland*. And
 the chronicle of Man affirms, that he would
 not suffer the Irish (there denominated Scots)
 to drive more than three nails into any vessel
 they built. Three years before his death,
 which happened in the year one thousand and
 seventy-six, Dermod Macmalnambo, assisted
 by the arms of the Ostmen, fought a battle
 against the king of Meath, in which he was
 slain. Yet the succession was not obtained by
 that prince, but by Turlogh O Brian, king of
 Munster, and a grandson of Brian Boro, who
 reigned, with a fair reputation for justice and
 other civil virtues, but without any memorable
 exploits in war, till the year one thousand and
 eighty-six, or (as some reckon) eighty-seven,
 when he was succeeded by Murrough O Brian,
 his son.

BOOK IV.
 Chron. Mann.

Usher, Syllog.
 Epist. Hibern.
 p. 71.

About this time a civil war divided the Ost-
 men. Godfrey Meranagh, whom the citizens
 of Dublin had elected to succeed to Gothric
 Crovan, took Waterford, which obeyed a dif-
 ferent prince; but in the year one thousand
 and ninety-five Murrough O Brian compelled
 them, by wasting their lands, to drive out
 Godfrey

Ware, c. xxiv.

BOOK IV.

Godfrey and elect another king. From hence-
forwards the cities and territories of the Ost-
men appear to have been held under fealty and
tribute to the several Irish kings in whose
districts they lay; and this people, addicting
themselves wholly to commerce, lost much of
their valour and military spirit, without mak-
ing any great improvements in politeness or
the civil arts of life.

O Conor's
Differt. p.
270, 271.

Chron. Man-
nia, in fine
Camdeni.

At the beginning of the twelfth century,
Donald O Lachlyn, a prince of the Hy Nial
line, reviving the ancient claim of his family
to the monarchy of Ireland, took up arms
against O Brian. While the nation was em-
ployed in a civil war on this quarrel, Magnus,
furnamed the Barefooted, king of Norway,
having superstitiously left his realm on account
of a dream, with a navy of a hundred and
sixty ships, fixed his seat in the isle of Man,
from whence he made himself master of all
the smaller northern and western British isles,
as far as Shetland, and (according to some his-
torians) of the peninsula of Kintire on the
western coast of Scotland.

The information he soon gained of the
weak condition of Ireland made him hope to
add that to his other acquisitions, and this
hope was to him a sufficient cause of war:
but while, by his orders, a great fleet was as-
sembling, he went himself, with a squadron of
only sixteen ships, to take a view of the coasts.
In doing this, as he saw no appearance of
forces drawn together to oppose him, he land-
ed

ed in Ulster, and proceeding without caution was surrounded on a sudden by a body of the natives, who slew him with most of his people. If this enterprize had been more wisely conducted, and the success had been answerable to what the divisions among the Irish princes, and the inclination of the Ostmen in favour of a monarch from whose country most of them originally came, seemed reasonably to promise, it would have erected in Ireland a Norwegian kingdom, which, together with Man and the other dominions of Magnus, full of shipping and good seamen, might, in process of time, have composed a maritime power, capable of maintaining itself, perhaps for ever, against that of the English, and disputing with them the sovereignty of the sea. It may indeed be esteemed most happy for this nation, that no king of Denmark, or of Norway, or of Sweden, nor any prince of the Ostmen settled in Ireland, ever gained an entire dominion of that isle; for, had it remained under the orderly government of any of these, its neighbourhood would have been, in many respects, prejudicial to England.

The imminent danger, with which the lawless ambition and formidable forces of Magnus had threatened the Irish, being ended by his death, the civil war, which before had divided that nation against itself, was renewed with great fury: but, in the year eleven hundred and six, it was agreed that the island should be equally parted between O Brian and Donald, each

Ware, c. xxiv.
O Conor's
Dissert. p.
270—274.

each of whom was made sovereign in the moiety assigned to him. Yet, not many years after the conclusion of this treaty for the peace of the country, new disorders arose, not from either of those monarchs, but from a young king of Conaught, named Turloch O Conor. The disquiet given to O Brian by the enterprises of this prince against his authority, and an infirm state of health, induced him to retire from his throne to a convent, in the year eleven hundred and eighteen. O Conor and Donald then fought for the sovereignty of the whole island; nor did the decease of the latter, which happened not long afterwards, put an end to the anarchy of this miserable country. The king of Conaught, for some years, was ill obeyed by the kings of Munster, Leinster, and Meath, whose quarrels with him occasioned great slaughter of the people, and great devastations, particularly in Munster, the power of which he quite broke, and dividing that kingdom into two portions, called North and South Munster, committed the former of these provinces to the government of Conor O Brian, and the latter to that of Donald Mac Carthy. Having acquired, at length, as absolute a dominion over all Ireland as any of his predecessors had ever enjoyed, he obtained from the Irish, too prodigal of high titles, the name of Turlogh *the Great*. Yet his greatness did not hinder Murtach O Lachlyn, king of Ulster, the chief of the Hy Nial race, from trying to wrest the sovereignty from him

- towards

O Conor, ut
supra.

Ibidem, p.
272.

towards the end of his life. The contest was bloody, but O Conor died on the throne, in the year eleven hundred and fifty-six; after whom reigned O Lachlyn, (whom some writers call Mac-Loglin) till the year eleven hundred and sixty-six, when he was slain by a petty prince of a district in Ulster. Roderick O Conor, king of Conaught and son of Turlogh the Great, who had vainly aspired to succeed to his father in the sovereignty of Ireland, now ascended the throne. He was formally elected in a general assembly of the states of the island convened by him at Dublin, and inaugurated with all the ancient solemnities, which no other supreme monarch of Ireland had been since Brian Boro. Yet, notwithstanding this shew of universal consent to his election, the peace of his reign was disturbed, within a very short time, by those intestine commotions, which the bad constitution of government in Ireland, and many other concurrent causes of discord and disorder, inevitably produced. He suppressed them indeed with great spirit; but the discontents of the vanquished, or of those whom fear alone prevented from rebelling, continued to rankle in their hearts, and helped to cause that subjection of this very ancient monarchy to the imperial crown of England, which came to pass in his days.

The manners of the Irish, as we find them described by contemporary writers, were, at this time, very savage. They tilled few of their lands, though naturally fruitful; nor had they any industry or skill in mechanicks or in manufactures,

BOOK IV.

Ware, c. iv.

O Conor,
ut supra.O Conor,
Dissert. p.
275—277.

v. Girald.

Cambrenf.

Topograph.

Hibern. c. x.

Neubrigensis,
l. ii. c. 26.

BOOK IV.

nufactures, but wore garments coarsely made of the black wool of their sheep, and lived chiefly on the flesh and milk of their cattle, or on wild roots and herbs. Their houses were such as could be easily raised and easily taken down, according as the convenience of hunting or fishing, or removing their cattle to different pastures, or the sudden incursions of a bordering enemy, might occasionally induce them to change their abode; and therefore were not built with brick or stone, nor usually with solid beams of wood, but with twigs of osier or wattles covered over with thatch. Even those of their kings themselves differed only from these in being more spacious; so that a castle of stone, erected at Tuam by Roderick O Conor, was called by his people, astonished at the novelty of it, *the wonderful castle!*

Solinus, c.

xxv.

Ware, c. xviii.

As for navigation, to which the inhabitants of an island, and an island full of good ports, are prompted by nature, we know from the testimony of Solinus Polyhistor, that the Irish in his time used to sail on the ocean between Ireland and Britain in wicker-boats, which they covered with raw hides, and which had no masts, nor sails, being the same with those of the ancient Veneti and Britons, described by Cæsar and Lucan. There is also in Marianus Scotus and Florence of Worcester an account of a voyage made by three Irish Scots, from Ireland to Cornwall, in a vessel of this kind, about the year our Lord eight hundred and ninety-

ninety-two. Whether their countrymen in that age had other and larger ships, I will not determine; but, after the Ostmen were possessors of all their best harbours, and masters of their whole coast, they could not have any fleets, but what they hired, or procured by some other means, from that people.

Giraldus Cambrensis says, “they went to battle unarmed, esteeming armour a burthen, and thinking that their fighting without such a protection was honourable to them.” Yet this must be understood with an exception to the shield, always used by the Irish; but they made it very light, being only of wicker, covered with leather or raw hides. In not incumbering themselves with any heavier armour they resembled the ancient Britons and the Welsh of those days; as they also did in their outcries and clashing of their arms before a charge, and rushing furiously on, without keeping any order, when the signal of battle was given. Giraldus Cambrensis informs us, in the passage above-mentioned, that the offensive weapons used, in his time, by the Irish, were short lances and darts, of which each soldier had two, resembling those of the Basques, (from whom he supposes their ancestors were a colony) and Danish axes, which the Ostmen had introduced. These last, he affirms, they constantly carried in their hands, wheresoever they went, in peace as well as in war. And he adds, that, in fighting, after their darts had been thrown, they cast at the enemy

Topograph.
Hibern. Dist.
iii. c. 10.

enemy stones, provided for that purpose; in the practice of which their dexterity was superior to that of any other people: but in close combat they used their ponderous Danish axes, which they managed with one hand, though the Ostmen (from whom they originally took them) could not wield them without the help of both. Yet, notwithstanding all the strength and agility of their bodies, in which no nation surpassed them, and scarce any equalled, the want of order and discipline, and total ignorance in the art of war, rendered them generally unable to employ with advantage these excellent gifts of nature. It was also a great defect in their military force, that they had no good heavy cavalry, nor any long spears, pikes, or halberts, with which their infantry might keep off a foreign enemy's horsemen from breaking in upon them; nor short, strong, and pointed swords, to thrust with, as well as to strike. Neither is any mention made of archers in their armies by Giraldus Cambrensis, in the particular accounts he has given of the battles between them and the English, or in what he says of their weapons and their way of fighting. It is, therefore, no wonder, that, having arms so inferior to those of other nations, they should be overcome, when invaded. Their chief security lay in their patient enduring of the most severe hardships. From their childhood exposed to cold, to wet, and to all the inclemency of the seasons, they suffered little by wanting

wanting that protection against them, which is necessary for men not so hardily educated in more civilised countries. Thus their bogs, woods, and mountains, were citadels to them, which foreign troops, not enured to the way of living in such places, could not easily force. And hence they despised all those arts which have a tendency to enervate, either the body, or the mind; abhorring to dwell in great cities, or to shut themselves up within the walls of forts, or to exchange the rough freedom of unpolished barbarism for the decent restraints of politeness. The only elegance they indulged in their whole course of life was the ancient custom, derived from their most remote ancestors, of entertaining their guests, with the musick of the harp; in playing upon which Giraldus Cambrensis affirms they greatly excelled his countrymen the Welsh: but the Scots of North-Britain (as the same author confesses) had, at the time when he wrote, the reputation of no less excelling them, *though they had learnt their art from them*. Every chief had his harper, who was likewise a poet, or bard, and sung the exploits of the family to which he belonged, at all their feasts. This office was hereditary by the old custom of Ireland. The son, however ill he might be qualified for it, succeeded to the father, and with his profession inherited a portion of land from the demesne of his lord. The songs of the bard had usually more power to incite and

Topograph.
Hibern. Dist.
iii. c. xi.

Ware, c. viii.

BOOK IV. inflame, than the music of the harp to soften or mitigate the ferocity of the chief: so that even this recreation, which seems to indicate something gentle and approaching to politeness in the temper of the Irish, contributed to keep up that turbulent spirit, averse to order and peace, which no prince, or legislator, that their country ever produced, had sufficient skill to controul.

Topograph.
Hib. Dist. iii.
c. 10.

Both sexes among them were generally handsome and well shaped; nature herself, to whose care the fashioning of their limbs was wholly left in their childhood, performing her work with peculiar beauty and strength: but the men deformed themselves, by letting their long, bushy hair hang down over their eyes, and by enormous whiskers which they wore on their upper lips, resembling in these modes the ancient Britons and Celts, as they likewise did in their habit.

Ware, c. ii.
—xii.

Topograph.
Hibern. Dist.
iii. c. 19, 26.

They were exceedingly jealous of their women. Giraldus Cambrensis accuses them of not using to contract any regular marriages, with the proper forms of the church, and of frequently marrying, in their own uncanonical manner, the widows of their brothers, or seducing them without marriage.

Topogr. Hib.
c. 23.
Ware, c. viii.
Sir J. Davies,
edit. Lond.
p. 179—182.

It was a practice among them to give their children to be nursed and bred up in other families, by a kind of adoption, while they themselves took in others, whom they fostered in like manner, from a notion that more love was thus produced, and a closer alliance contracted,

tracted, than even by the nearest ties of blood. BOOK IV.

This unnatural interchange was purchased of the richer by the meaner sort of people, and proved indeed a strong connection between the former and the latter, as well as a cement of more extensive and factious confederacies between powerful families, which thus transferred to each other all the ties of paternal and filial affection. They likewise held, to the shame of reason and religion, that the spiritual affinity, contracted between those who were sponsors together for a child at his baptism, obliged them ever afterwards to stand by one another in all things lawful and unlawful. For the confirmation of this league, which they called *compaternity*, and of other compacts between them, they often received the sacrament of the Lord's supper, and afterwards drank each other's blood. Thus even the most holy rites of Christianity, mixed with barbarous superstitions, became to the Irish solemn sanctions of evil combinations very dangerous to the publick!

The ancient Celts were accustomed to swear by *their arms*; and the Irish used the same oath, which remained among them much longer than the times of which I write: but they feared most to be perjured when they had sworn by the crosses of some of their sainted bishops, or by the bells in their churches, believing that divine vengeance would instantly attend the breach of such oaths.

Sir John Davies, ut supra.
Topogr. Hibern. Dist. iii.
c. 22.

Topograph.
Hib. Dist. iii.
c. 33.

BOOK IV.

V. Bernardi
Opera, edit.
Paris.
S. Malachie
Vit. p. 1937.

V. Usher &
Scillingfleet.

Ware, c. xxiv.

Ibidem,
c. xxiv.

We are told by St. Bernard in his life of Malachy, that, not only all the clergy, but the whole nobility, and even *the kings of Ireland*, on account of the veneration they had for St. Patrick, *were in all obedience subjected to the successors of that prelate in the see of Armagh.* The power of those who held that see, in which the primacy had been for many ages established, was certainly great in the temporal affairs of the kingdom; and it is evident from clear historical proofs, that this, and the other Irish metropolitan sees of Cashel and Tuam, had been, till the twelfth century, quite exempt from all dependence on any foreign see, that of Rome not excepted. But the Oſtmen were not so tenacious as the Irish of the liberty of their church. For, in the year of our Lord one thousand and seventy-four, Patrick, one of that people, elected bishop of Dublin, solemnly promised, for himself and successors in his bishoprick, canonical obedience to Lanfranc archbishop of Canterbury, and the successors of that prelate, by whom, at the desire of the clergy and people of Dublin, he was consecrated in London. It is hard to say upon what this subjection was founded: for the city of Dublin was not then subject to England, but under the government Gothrick Crovan, king of Man, and is stiled in the words of the profession of obedience made by this prelate, *the metropolis of Ireland.*

An episcopal see was erected at Waterford in the year one thousand and ninety-six; and
one

one Malcom, born in Ireland, but educated in England, where he had been a monk, being chosen the first bishop, he promised obedience to the see of Canterbury, and received consecration from Archbishop Anselm. One cannot doubt that these prelates conceived themselves to be subject, as well as their primate in England, to the supremacy of the pope; and it appears, from St. Bernard's life of Malachy, that, before the year eleven hundred and thirty-nine, a legatine commission had been given by Rome to a bishop of Lismore; but that he had exercised any jurisdiction in Ireland, by virtue of that character, I do not find. In the above-mentioned year, while Innocent the Second was pontiff, Malachy, who had obtained the archbishoprick of Armagh while his country was agitated with civil dissensions, went to Rome for a pall, which (to use the words of St. Bernard) "*had been from the beginning, and was still wanting to the metropolitan see.*" Innocent, pleased with this homage from a prelate whose predecessors had been so long independent, received him with great honours, taking off his own mitre, and placing it on the head of this respected guest: but desiring to render the request of a pall rather the act of the Irish nation than of their primate alone, he exhorted him to assemble a national council, and persuade them to sue for that favour. He did not however dismiss him, after such an application, without granting him what he

V. Bernard.
in Vita Malachie, c. xvi.

knew would please him as well, the character of legate in Ireland; availing himself of the plea, that the bishop of Lismore, to whom it before had been given, was grown old and infirm. Malachy therefore returned with this dignity into Ireland, and endeavoured to execute his new master's injunctions: but it seems that the Irish nation did not readily admit the propriety of making the unprecedented petition to which they were urged; for several years passed away without its having been made; and when the primate had brought his countrymen to apply to Pope Eugenius the Third, in the year eleven hundred and thirty-eight, for this gift, which Bernard calls *the plenitude of honour*, he died before he had time to convey to that pontiff the request of the council. Yet, on the foundations he laid, Eugenius, in the year eleven hundred and fifty-one, sent cardinal Paparo legate *à latere*, into Ireland with four palls, for the archbishops of Armagh, of Tuam, of Cashel, and of Dublin; the last of which cities was then first erected into an archbishoprick. Thus the badge of subjection to the Roman pontificate was at last received by the Irish metropolitan prelates.

Usher, De
Brit. Eccles.
Primordiis,
p. 870.
Ware, c. xvi.

While the legate was in Ireland, he used the opportunity to impose on the clergy the unnatural restraint of perpetual celibacy, to which, it may be presumed, they submitted the more easily, as most of them at this time indulged their desires without the form
of

of marriage. We are told by St. Bernard, BOOK IV.
 that before the election of Ceallach (or Celfus) In Vitâ S. M.
 to the see of Armagh, it had been held by p. 1937.
 eight successive prelates, who were all married men. He adds that these prelates were not in holy orders, and (what is still more extraordinary) that this dignity had been, for fifteen generations, hereditary in the same family. Malachy laboured more eagerly than any of his predecessors to bring the church of Ireland to a nearer conformity with that of Rome; for which merit he is placed in the Roman calendar as a saint. Before he attained to the primacy he was bishop of Connor and P. 1935, 1936.
 Down; and Bernard says, that, when he first went into Connaught, he found the people of that country more barbarous than any he had ever seen elsewhere, being Christians only in name, but in reality heathens, and beasts rather than men; that they paid no tithes, nor first fruits, contracted no lawful marriages, made no confessions, submitted to no penances; that the ministers of the altar were few, and very negligent of their duty; but that, by the care of this prelate, a great change was soon effected in all these particulars. Nevertheless it appears that much barbarism remained, not only in that province, but all over Ireland, till the times of which I write. It was indeed hardly possible to reform the evil customs which prevailed among the Irish without altering their government; nor could that be accomplished by any other means, than by
E 4
their

BOOK IV. their being subjected to some more civilised, foreign power.

V. Girald.

Cambr. Itine-
rarium Cam-
briae, l. ii, c. i.

William Rufus, in one of the expeditions he made against the Welsh, being on the rocks of the sea-coast about St. David's, from whence he had a prospect of some of the Irish hills, said to his attendants, *that he would make a bridge with his ships from that place to Ireland.* But this and other great designs, which his ambition had formed and his power might have executed, were frustrated by his death.

De H. I. l. i.
f. 9.

William of Malmfbury tells us, that the monarchs of Ireland contemporary with Henry the First, king of England, were so devoted to him, that they did nothing but according to his commands: which submission he ascribes to their fear of his restraining his subjects in this kingdom from trading with the Irish; as without that commerce their country, from the poverty and the ignorance of its inhabitants, would have been of small value.

Henry the Second, soon after he came to the crown, proposed to undertake the conquest of Ireland. But having no title on which he could possibly found a legal claim to that isle, nor any reasonable cause of war with the nation, he took the only method of supplying these defects, by colouring his ambition with a pretence of religion. Nicholas Breakspear, an Englishman, was then bishop of Rome under the name of Adrian the Fourth. To him Henry sent John of Salisbury with letters, wherein he desired the sanction of the
papal

papal authority to justify his intention of BOOK IV.
 subduing the Irish, *in order to reform them.*

A request of this nature, which supposed in the pope a power he wished to assume, could not fail of being favourably received at Rome.

Henry's minister brought from thence a ring of gold to his master, sent by the pope as a sign of his investing that prince with the kingdom of Ireland, and delivered to him the following epistle or bull.

“ Adrian, the bishop, a servant of the servants of God, to his dearest son in Christ Jesus, the illustrious king of England, sends greeting and apostolical benediction. The desire your Magnificence expresses to extend your glory upon earth, and to lay up for yourself in heaven a great reward of eternal happiness, is very laudable and profitable for you, *while, as a good catholick prince, you endeavour to enlarge the bounds of the church, to declare the true Christian faith to ignorant and barbarous nations, and to extirpate all evil from the field of the Lord; which the better to perform, you ask the advice and encouragement of the apostolical see.* In the accomplishment of this work we trust you will have, by the assistance of God, a success proportioned to the depth of counsel and discretion with which you shall proceed: forasmuch, as every thing which which takes its rise from the ardour of faith and love of religion is most like to come to a good and happy end. There is indeed

G. Camb.
 Hibern. Expugn. c. 6.
 l. ii.

See Rymer's Fœdera, tom. i. p. 15. and Appendix to this Book.

BOOK IV. “ deed no doubt, that (*as you yourself acknow-*
 “ *ledge*). Ireland, and all other islands, which
 “ *Christ, the sun of Righteousness has illu-*
 “ *minated, and which have received the doctrines*
 “ *of the Christian faith, belong, of right, to*
 “ *the jurisdiction of St. Peter and the most*
 “ *holy Roman church.* Wherefore we more
 “ gladly sow in them the seed of faith, which is
 “ good and agreeable to God, as we know that
 “ it will be more strictly required of our con-
 “ science not to neglect it. Since then you have
 “ signified to us, most dear son in Christ, that
 “ you desire to enter into the island of Ire-
 “ land, in order to subdue the people to the
 “ obedience of laws, and extirpate the vices
 “ which have there taken root, and *that you*
 “ *are also willing to pay an annual pension to*
 “ *St. Peter of one penny from every house*
 “ *therein, and to preserve the rights of the*
 “ *church in that land inviolate and entire,* we,
 “ seconding your pious and commendable in-
 “ tention with the favour it deserves, and
 “ granting a benignant assent to your petition,
 “ are well pleased, that *for the enlargement*
 “ *of the bounds of the church, for the restraint*
 “ *of vice, the correction of evil manners, the*
 “ *culture of all virtues, and the advancement*
 “ *of the Christian religion,* you should enter
 “ into that island, and effect what will con-
 “ duce to the *salvation thereof* and to the
 “ honour of God. It is likewise our desire,
 “ that the people of that country should re-
 “ ceive you with honour. and *venerate you*
 “ *as their master: provided always, that the*
 “ *ecclesiastical*

“ ecclesiastical rights therein remain inviolate and
 “ entire; and reserving to St. Peter and the
 “ most holy Roman church the annual pension of
 “ a penny from every house. If therefore you
 “ think fit to put your design in execution,
 “ endeavour studiously to instruct that na-
 “ tion in good morals, and do your utmost,
 “ as well personally, as by others whom you
 “ know, from their faith, doctrine, and course
 “ of life, to be fit for such a work, that the
 “ church may there be adorned, *the Christian*
 “ *religion planted and made to grow*, and what-
 “ soever appertains to the honour of God
 “ and the salvation of souls so ordered, as
 “ may entitle you to an eternal reward from
 “ God, and a glorious name upon earth.”

When Henry acknowledged *that Ireland and all other islands, which had received the doctrines of the Christian faith, belonged of right to the jurisdiction of St. Peter, and the most holy Roman church*, he certainly meant a spiritual jurisdiction; for otherwise this concession would have given to the pope the temporal sovereignty of England, as well as of Ireland. But yet the purport of the bull, by which his Holiness in effect disposed of that island, seemed to imply that the property, or supreme dominion, was in him: and it appears from the words of John of Salisbury himself, whom Henry employed in this business, that this pretension was founded on the forged donation of Constantine to Pope Sylvester the Second. Moreover Giraldus Cambrensis, in reckoning

V. Johan.
 Sarisbur. Me-
 talog. l. iv.
 c. 42.

BOOK IV.

V. Hibern.

Expugnat.

l. ii. c. 7.

reckoning up the claims which Henry had to Ireland, mentions this grant of Adrian, and the confirmation of it by the authority of Pope Alexander the Second, as sufficient to answer all objections, or cavils, against the pretensions of that prince; *the supreme pontiffs* (as he says) *asserting to themselves the sovereignty of all islands, by a special right.* He means by the donation of Constantine above-mentioned. So extravagant were the ideas of the clergy in that age concerning the rights of the Roman pontificate! and this ought to have made the temporal powers more careful, in their transactions with Rome, to do nothing which might countenance those monstrous claims. It plainly appears by this bull, that Pope Adrian considered the payment of a penny from every house in Ireland, which had been offered by Henry, as a most indispensable condition of the sanction he gave to this unjust undertaking; which was really selling the independence and liberty of the Irish for so much profit to himself and the apostolical see. But he had a further view in so strongly insisting thereupon. For, though peter-pence, in its first institution by King Offa, was only eleemosynary, for the sustenance of poor English students at Rome; yet the popes had long desired, that it should be understood as a *tribute*, by which their sovereignty was acknowledged. And the granting it from Ireland, where no ancient usage had established such a gift, looked like a confession of that pretended

pretended right on the part of King Henry. BOOK IV.
 The ring also which that prince received from Adrian, as a mark of investiture, gave an appearance of his holding the dominion of Ireland from and under the pope; though it is certain he owned no such dependence.

Upon the whole, therefore, this bull, like many before and many since, was the mere effect of a league between the papal and regal powers, to abet and to assist each other's usurpations: nor is it easy to say whether more disturbance to the world and more iniquity have arisen from their acting conjointly, or from the opposition which the former has made to the latter! In this instance the best, or indeed the sole excuse, for the proceedings of either, was the savage state of the Irish, to whom it might prove beneficial to be conquered, and broken thereby to the salutary discipline of civil order and good laws.

We are told by the Norman Chronicle, that Henry, in meditating the conquest of Ireland, intended to give that kingdom to Prince William, the youngest of his brothers, for whom no provision had been made by their father. It must be understood that he meant to give it to him under homage and fealty to the crown of England, not as a sovereign and independent dominion. The same chronicle adds, that he was persuaded, by the advice of his mother, the empress Matilda, to defer the execution of his purpose. It seems indeed that the internal affairs of his government were not yet so well settled,

Chron. Norm.
ad ann. 1154.

settled, as to suffer him to engage in an enterprise of this nature, to which he was not invited by any of the Irish. He therefore laid up the bull he had obtained from the pope among the archives of his realm, to be brought forth at a more convenient season. Many years passed without his having been tempted to turn his thoughts towards Ireland. But, about the end of the year eleven hundred and sixty-seven, an event happened there, the consequences of which opened to him a way to that sovereign dominion over the Irish, which soon afterwards he acquired, and which has never since been quite lost, but for a long time, ill maintained, and too often ill exercised, by his successors, kings of England.

Irish Annals.

The first cause of this most important revolution, was Dermot Mac Murogh, or (as some call him) Mac Murchad, king of Leinster, who, in the year eleven hundred and twenty-six, had succeeded to his brother in the government of that state. He ruled it as a tyrant, and made himself very odious to the nobility of his realm by perfidiously seizing, in the year eleven hundred and thirty-seven, the persons of seventeen chieftains, the most potent of whom he put to death, and tore out the eyes of the others. Nevertheless, as his tyranny was supported by valour, and this very act struck a terror into all the rest of his subjects, he retained an uncontrollable power over Leinster till the year eleven hundred and forty-two, when he was driven from thence by Turlogh O Brian,

king

king of Munster, and fled for aid to O Conor, then monarch of Ireland, against whom, in conjunction with Murchad O Melachlin, king of Meath, he had before taken arms. His present distress, and a jealousy of O Brian's excessive aggrandisement, obtained the protection he implored from O Conor, whose forces, with those which Dermot was enabled to re-assemble in Leinster by the credit of this league, defeated O Brian, and slew seventeen thousand of his men, in the year eleven hundred and fifty-one. The next year, O Melachlin having submitted to O Conor, he and Dermot joined that monarch, as head of the nation, in making war against a prince who continued to oppose him, namely Ternan ORuark, lord of the Hy Brune Breffny, a territory in the eastern part of Conaught, comprehending the provinces of Cavan and Letrim. This potentate, though he had married Devorgalla, the king of Meath's daughter, was hated by her father, for having basely taken part with his enemies against him, and profited by his spoils on a former occasion. That king therefore not unwillingly assisted O Conor to subdue a rebel vassal, whom he himself wished to punish. The confederates having won a battle against him, he was forced to retire into the fastnesses of Conaught, while O Conor took from him, as a fine for his revolt, a considerable district adjoining to Meath, and then returned with his forces into his own country. But Dermot, who had long been in love with

with Devorgalla, a very beautiful lady, used this opportunity of the absence of her husband from the place of her abode, to carry her off into Leinster, with her own consent, and (what is still more extraordinary) with the aid of her brother, the governor of East-Meath. O Ruark, on this outrage, implored the protection of the sovereign of Ireland, O Conor, who generously granted it to him, and leading a great army into the confines of Leinster forced Dermot, whose passion had been cooled by enjoyment, to deliver up Devorgalla, with the valuable effects which her husband, by the custom of Ireland, had given her on their marriage, and which the ravisher had taken together with the lady. How her husband received her, or whether, after her return, they ever cohabited, the Irish annals do not say; but they tell us, that her conduct was irreproachable from that time; that, in the year eleven hundred and fifty-seven, when the church of Drogheda was consecrated, she made a donation of sixty ounces of gold for the good of her soul, and gave a golden chalice for the altar of the blessed Virgin, with many other rich gifts, to the abbey of Drogheda, where she died in the year eleven hundred and ninety-three, after a penitential retreat of seven years. Her father, the king of Meath, had survived the dishonour brought on his family only a few months. The next year, eleven hundred and fifty-four, O Ruark, at the head of his own troops out of Conaught, entered Leinster and

and ravaged it with all the fury of revenge, but could not expel Dermot, who, after the decease of Turlogh O'Connor, taking part with his successor, Murtach O'Lachlyn, against Roderick O'Connor, was, by the aid of that monarch, secured in the quiet possession of Leinster till the year eleven hundred and sixty-six, when O'Lachlyn being slain, Roderick O'Connor obtained the sovereignty of Ireland. This made a great change in the circumstances of Dermot. His enemy was on the throne, instead of his friend. All who hated him, in which number were most of his subjects, now joined with the sovereign in desiring to take a full revenge upon him for old or recent offences. The forces of Conaught, of Meath, and of the Oostmen of Dublin, under the command of O'Rurark, invaded his country; his vassals forsook him; he retired to Fernes, at which place he had a fort; and, the enemy following him, he set fire to the town, and fled from thence into England. This resolution appears to have been suddenly taken, without concert with Henry, whom he did not find in that kingdom, but, being informed that he was in Aquitaine, went to him there, and, as a king, in whose person the royal dignity had been injured, complained of the disloyalty and rebellion of his subjects, supported (as he said) by a malicious combination of the other Irish princes, against whose power he begged the assistance of Henry; offering, if restored by that prince to his kingdom, which his ancestors

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had

Hibern. Ex-
pugnat. l. i.

BOOK IV. had ruled over for many ages past, to hold it, as a fief, under homage to England. This bribe disposed Henry to be not so attentive as he ought to have been to the merits of the cause, and the dishonour it would bring upon his own moral character to support a wicked tyrant, whom his countrymen had most justly driven out of their island. Princes usually weigh considerations of state in the scales of policy, not of justice. Henry saw the advantage, if he should ever pursue his former design upon Ireland, of having there a vassal king, obliged to him for the recovery of his dominions, and at enmity with all the other Irish princes. For this reason he thought fit, after having received an oath of fealty from Dermot, to give him letters patent in the following words; “ Henry, king of England, duke of Normandy and Aquitaine, and earl of Anjou, to all his liegemen, English, Norman, Welsh, and Scotch, and to all the nations under his dominion, greeting. When these letters shall come to your hands, know ye, that we have received Dermot, prince of Leinster, into the bosom of our grace and benevolence. Wherefore, whosoever, in the ample extent of all our territories, shall be willing to assist in restoring that prince, as our vassal and liegeman, let such person know, that we do hereby grant to him our licence and favour for the said undertaking.”

Hibern. Expugnat. l. i. c. i.

This mode of assistance did not so directly engage the king of England in a war with the Irish

Irish nation, as the sending against them any forces under his own royal standard; and Dermod reasonably hoped, that the adventurous spirit of the English nobility would make this recommendation effectual to his service. He therefore went into England; and a decent provision being allowed him by Henry out of the royal revenue, he fixed his abode at Bristol, from whence, by means of the commerce which was constantly carried on between that city and Ireland, he might have frequent intelligence of what happened in Leinster, where he still corresponded with some of his most devoted friends. Here he produced the letters patent he had obtained from King Henry, and having publicly read them added liberal promises of lands and other rewards to all nobles or soldiers, who would aid him to regain possession of his kingdom. But the danger of trusting to the good faith of a tyrant, or the apparent difficulty of the enterprize, so discouraged men from it, that for some time he met with no success. At length a great baron, Richard de Clare, earl of Pembroke, surnamed Strongbow, as his father had also been before him, was impelled, by the indigence into which he was lately fallen, to desire the advantages offered by Dermod, who proposed to give him his eldest daughter in marriage, and with her (as he had no legitimate son) the succession to his kingdom, on condition that the earl should raise for his service, and bring over into Ireland, a good body of forces, before the end of

Hibern. Expugnatio. l. i. c. 2.
Lambeth Manusc.

Neubrigens. l. ii.

BOOK IV. the next spring. This it was in the power of that nobleman to perform, notwithstanding the bad circumstances of his present fortune, because those very qualities which had reduced him to poverty endeared him to his vassals, I mean his profuse, extravagant generosity, and a certain greatness of mind, which, while it aspired to the highest objects, gave no attention to small ones, and considered œconomy as a virtue below its pitch.

On the compact made by Dermot it is necessary to observe, that although, regularly, by the ancient constitution of Ireland, no Irish kingdom descended to the daughter of a prince, or the husband of such daughter, yet, elections being usually carried on by force in all the governments there, Strongbow could not much doubt, that, if his arms should prevail in the enterprise of recovering Leinster for Dermot, they would also enable him to secure to himself the stipulated succession after the death of that king.

Hibern. Expugnat. l. i. c. 2, 3.

These preliminaries being settled, Dermot departed from Bristol, and went to reside at St. David's, from whence the passage to Leinster, with a favourable wind, is only of one day. He there engaged in his service two young noblemen of great rank, Maurice Fitzgerald, and Robert Fitzstephen, who were both sons of Nesta a princess of South Wales, mentioned before in this work, on account of her amour with King Henry the First, and as mother to Robert, the famous earl of Gloucester.

Maurice

Maurice Fitzgerald was the offspring of her subsequent marriage with Gerald de Windsor, an English baron in South Wales, and Robert Fitzstephen of another, which, after the death of that lord, she made with Stephen, who was constable of Cardigan castle and presided over that province. On the last revolt of Rhees ap Gryffyth against Henry the Second, Fitzstephen, who had succeeded to his father's offices, was treacherously seized by the Welsh, and delivered to their prince, his cousin german on the mother's side, who kept him in prison three years, and then freed him on condition of joining his party. The bad consequences, which, on Henry's return into Britain, both the brothers might feel from this constrained obligation, inclined Fitzstephen and Fitzgerald to close with the proposals made by Dermod, who offered to give them in fee, under homage to himself, the city of Wexford, and two cantreds (or hundreds) adjoining thereunto, if they would bring into Leinster, as early as they could in the next spring, a band of English and Welsh, to assist the attempt he then determined to make for the recovery of that realm. The bishop of St. David's, their brother, prevailed on Rhees ap Gryffyth to let them take this opportunity of withdrawing themselves out of Wales, and avoiding a war, in which they otherwise might be forced, by their contrary engagements, most unnaturally to fight against each other.

Dermod, therefore, having happily concluded his treaty with these two chiefs, and trusting also to that he had made with Earl Strongbow, ventured to go into Leinster, and lying concealed in a monastery, founded by him on the banks of a little river near Fernes, passed the winter unmolested by any of his enemies, who supposed him still in Great Britain. The fidelity of the monks, in thus harbouring and protecting their unfortunate benefactor, deserves great praise. In this retreat he negotiated, as privately as he could, with some of his most trusty friends, and gained from them information of the present state of Leinster, and, in general, of all Ireland. It appears that no care had been taken in the former, on his expulsion from thence, to make a proper provision for the government of it, by putting into his place another prince of the family, which, during the course of many centuries past, had ruled over that province. O Ruark had destroyed the fort of Fernes, which Dermod had erected, and then returned with his forces to that district in Conaught where his principality lay. The monarch Roderick O Conor was busied in settling the partition of Munster between MacCarthy and O Brian; which he did in such a manner as much offended the latter. Leinster was left in a state of anarchy very favourable to Dermod, who had skill enough to improve the negligence of his enemies to his own advantage. Very early in the spring he sent

Maurice

Maurice Regan, his interpreter and secretary, back into South Wales, to hasten the coming of Fitzstephen and Fitzgerald, empowering also that agent to treat with other persons who might be willing to aid him in regaining his kingdom, by promising ample recompenses in lands of inheritance to those who should chuse to settle there, or in money or *cattle* to others. This procured him a few Flemings from the colony of that nation at Tenby and Haverford West, and some Welsh whom the son of a petty prince of South Wales had under his conduct. On the arrival of these, before the other succours he expected were ready, he put himself at their head, and, being joined by some bands of his adherents in Leinster, attempted to recover certain parts of that country, not prepared to oppose him. His enemies, who knew nothing of his winter residence in the monastery adjacent to Fernes, were much surpris'd at his sudden appearance in arms, and supposed him just landed: rumour greatly exaggerated the number of foreigners who were under his banner; upon which alarm the Irish monarch, and Ternan O Ruark, with all possible diligence assembled some forces, and met him at Kil Osna. A skirmish ensued, in which was slain O Mahoni, a principal officer under Roderick; and a second, in which fell the *tanist* of O Ruark (that is, the successor elect to his principality) and the son of the Welsh prince confederated with Dermod, whom the Irish annalists call *the bravest youth of all Britain*.

Irish Annals.

Ibidem.

tain. But Dermod, who had hoped that Fitzstephen and Fitzgerald would have come to his aid with their troops before the Conaught militia could be drawn into Leinster, finding himself disappointed in this expectation, had recourse to a treaty with Roderick and O Ruark, submitting himself to the former, and paying to the latter a hundred ounces of gold for his protection. The resentment of O Ruark was mitigated by this gift, and Roderick was content to leave Dermod in possession of ten cantreds in Leinster (out of one and thirty whereof that province was composed) for the support of his dignity, taking from him seven hostages for his future fidelity. This was a capital error in the conduct of these princes, who might have crushed him before his auxiliaries could arrive; but they were ignorant of the treaties he had made in Great Britain, and deceived by his fair professions, or called off, from any further attention to him, by other objects which seemed to them more important at this juncture of time. Yet soon afterwards Roderick, on some report of new succours coming to Dermod from England, drew to Dublin a great army from the several provinces under his dominion, in order to oppose the apprehended invasion: but, his fear being removed by other intelligence, he disbanded the greatest part of these troops; a hasty measure, of which he quickly repented: for, about the beginning of May in this year eleven hundred and sixty-nine, Fitzstephen landed

Irish Annals.

Hibern. Expugnatio. l. i.

landed at an island in Banough bay, not far from Wexford, with thirty knights, who were all of his kindred or household, sixty more men-at arms, and three hundred skilful archers, the flower of South Wales, selected by him for this service. The chief himself (if his nephew, Giraldus Cambrensis, has painted him truly) was distinguished by a stature and strength of body surpassing the ordinary course of nature, by a graceful dignity of aspect, by a sound and acute understanding, by agreeable manners, and a bountiful heart: but these perfections were disgraced by an inordinate love of wine and women. Hervey of Mountmaurice, Strongbow's uncle, was deputed by that lord to assist Fitzstephen with his counsels in the conduct of this expedition, undertaken (as it seems) in concert with the earl. Maurice de Prendergast, a knight of the province of Pembroke, highly esteemed for his valour, set sail from Milford Haven, and landed at the same place in Banough bay, the day after, with ten horsemen, and a considerable body of archers. Fitzgerald and the earl promised him and Fitzstephen to follow them into Leinster, as soon as the levies they were making among their own vassals, or from the neighbouring districts inhabited by the Welsh, should be compleated. The forces, now sent, would, they supposed, be sufficient to make themselves masters of some strong post, or fortified town, on the coast, with the help of such Irish as Dermot might join to them.

Lambeth
Manuscr.

Hibern. Ex-
pugnata. l. i.

them. When that prince heard that Fitzstephen and Prendergast were landed, he sent Donald Kevenagh, one of his natural sons, to welcome them in his name, and soon afterwards came himself, at the head of five hundred of his best Leinster troops, kept in readiness for this service. On his arrival the foreign chiefs and soldiers took an oath of fealty to him; and the next morning he led them, in conjunction with his men, to storm the city of Wexford. The citizens, hearing of their approach to the suburbs, sallied forth with intent to give them instantly battle. They were all Ostmen, and near two thousand in number; but, when they came within sight of the enemy, and beheld the army drawn up, according to the excellent discipline of the Normans, the cavalry flanking the archers, and the horsemen glittering with their shields, habergeons, and helmets of polished steel, they were seized with a sudden terror, and precipitately retiring set fire to the suburbs, and betook themselves to the town. Fitzstephen hereupon commanded his men at arms to go and fill up the ditch, while his archers, at some distance, annoyed the Ostmen, who were posted on the ramparts and battlements, with continual showers of arrows. This being performed, he led on his men at arms to scale the walls. They advanced with loud shouts; but the citizens casting down, on the heads of the assailants, huge stones and beams of wood, by one of which Richard Barry, a nephew

nephew to Fitzstephen, was tumbled into the ditch, and many others were much wounded, this assault was repelled, and the general contented himself, that day, with burning all the ships which lay at anchor in the strand before the town. The next morning he resolved to renew the attempt, and to prepare his men for it ordered masses to be said before the several bands; but made his approaches more cautiously than before, intending (as it seems) to sap the walls, according to the rules of the military art in those times: which when the citizens saw, their hearts failed them, and they sought to capitulate. Two Irish bishops, who happened to be then in Wexford, mediated for them with Dermot, and obtained from him a pardon of their rebellion against him, on condition of their instantly surrendering the town, and delivering to him four hostages for their future obedience, chosen by himself.

Wexford being thus taken, the king very honourably performed his engagements, by giving it to Fitzstephen with the two adjoining cantreds, for him and his brother. At the same time he bestowed upon Hervey of Mountmaurice, in recompence for his service, two other cantreds, situated between Wexford and Waterford, upon the sea coast. This first success of their arms, and the rewards it had gained them, excited these adventurers to further exploits. Many Irish and citizens of Wexford having joined them, they marched into Ossory with about three thousand men, besides their own troops. The prince of that region, Fitz-

patrick,

Hibern. Ex-
pugnat. l. i.
c. 4.

Lambeth
Manuscr.
Hibern. Ex.
pugnat. ut
supra.

patrick, had some time before, in a fury of jealousy, put out the eyes of Dermod's eldest son; to revenge which outrage, as well as to punish the revolt in which he had since been engaged, was the object of this expedition. But the army had not penetrated far into the country, when it was stopt by a natural fortification of bogs and woods, which Fitzpatrick, at the head of five thousand men, had rendered still more defensible by strong entrenchments across the entrance of the pass. In attacking this post Fitzstephen and his troops were several times driven back, which repulses at last so emboldened the Irish, that they ventured to pursue them into the plain, where the cavalry charged and routed them in an instant; and when these, with the impetuous shock of their lances, had thrown them to the ground, the Leinster foot of Dermod's party beheaded them with their axes. Two hundred heads, thus cut off, were brought and laid at Dermod's feet, who viewing them one by one, and knowing the faces, was seized with such a transport of savage joy, that he leaped thrice, and uniting a most discordant act of piety to all the ferocity of an implacable spirit, with hands uplifted and joined together in a posture of devotion, sung, over these miserable remains of his enemies, a loud thanksgiving to God; then taking up one, which was the head of a man he particularly hated, in the rage of his heart he bit off the nose and lips! The fellness of this most in-
human

human deed rather irritated than fatiated his barbarous thirst of revenge. He and Fitzstephen pursued, with unremitting alacrity, the advantage they had gained, carrying sword and fire into the inmost parts of the country, and meeting with little resistance, except in passing a defile, where the English, after driving the enemy from a post at which a stand had been made, were engaged, both horse and foot, in a very dangerous bog, or marshy ground; and, being again attacked there, fought themselves out, with extreme difficulty, by their own dauntless valour; the Irish, who were with them, on the party of Dermod, doing nothing to assist them, but lying hid in the woods till the danger was over, and then joining them to pursue the enemy they had routed. Dermod prevailed on Fitzstephen to continue this war by repeated expeditions, till having received intelligence, that the whole Irish nation, under the orders of Roderick O Conor, their sovereign, was now arming against him, he granted a peace to the prince of Ossory: but the reconciliation, on both sides, was equally insincere.

BOOK IV.
Hibern. Ex-
pugnat. l. i.

Lambeth
Manuscr.

Hibern. Ex-
pugnat. l. i.
c. 5.

Not long before this time, a general assembly of the Irish states had been called, on the alarm of the victories Dermod had obtained with the aid of foreign troops. The bringing these into Ireland was so justly resented by most of the nation, that they speedily got together a very numerous army, which Roderick led into Leinster. On their approach many Irish, who

who had taken part with Dermod, again forsook him: but, notwithstanding this desertion, Fitzstephen and his men remained firm and undaunted. These, with a few of the king's most affectionate or most courageous friends, and that prince himself, whose intrepidity was his greatest if not his only virtue, took post in a valley, not far distant from Fernes, and incompassed with thick woods, steep mountains, and deep bogs. This strong ground they made yet stronger, by digging pits, at near distances, before the front of the camp; laying trees, which they had felled, across the pass; and using all other methods, which the military art of those days could contrive, to secure them against the assaults of an enemy far superior in numbers.

When the Irish monarch came up, and saw their post so fortified, he was afraid to attack them; but sent great presents, and promises of greater, to Fitzstephen, if he would retire out of Ireland with all his troops. This being rejected, the same messengers negotiated with Dermod, and offered that prince the friendship of Roderick and quiet possession of Leinster, if he would join his arms to theirs, for the total extermination and destruction of these foreigners, to which they vehemently urged him, as expedient and necessary for the safety of their country. But, either he feared to trust their promises, or scrupled to consent to so atrocious a perfidy; for they returned without success: whereupon Roderick, despairing of
any

any benefit by a treaty, endeavoured to animate his people to a battle, as the sole resource that remained: but the difficulty of storming so inaccessible a camp, defended by such brave and well-disciplined soldiers, appearing unsurmountable, negotiations were renewed between the two kings, through the intervention of friends. It was agreed that all Leinster, under fealty to Roderick, as sovereign of Ireland, should be restored to Dermot, who promised, by a secret article of the treaty, to call over no more foreigners into that island, and to send away those he had already brought thither, as soon as he was quietly settled in his kingdom. His late breach of faith made it difficult and unsafe to trust him now; but he removed this objection by consenting to deliver, as a hostage to Roderick, one of his natural sons, whom he seemed very fond of, and to whom Roderick promised his own daughter in marriage, if the peace should continue inviolate and effectual. The Irish annalists say that he also gave a grandson in pledge to that monarch: but (however this may have been) he was a man whom no sureties could bind to any contract which his interest tempted him to break. For, soon afterwards, being told that Maurice Fitzgerald was safely landed at Wexford, with ten knights, thirty horsemen of an inferior degree, and about a hundred archers, he received them very gladly, and leaving Fitzstephen employed in building a fort, on the summit of a rock, about three miles from Wexford, gave to Fitzgerald

BOOK IV.

Hibern. Ex-
pugnat. p.
770. l. i.
c. 17.

Ibidem, c. 11.

gerald the chief command of his army, with which he marched to lay waste the territory of Dublin. I have said before, that the Ostmén, inhabitants of that city, had submitted to hold it of the kingdom of Leinster, in the reign of Murrough O. Brian, the grandfather of Dermod. Yet, some time afterwards, they slew the son of that prince to whom they had sworn fealty; and (as the greatest indignity they could offer to his memory) buried him with a dog, in the middle of their townhouse. His son, the present king, never forgot this offence; and, being further incensed by their acts of rebellion against himself, he cruelly ravaged the lands of the citizens, and put to the sword the unarmed and defenceless inhabitants he found upon them, till his fury was stopt by the necessity he was under of turning his arms another way. For, Donald, prince of Limerick, though brother to Roderick on the mother's side, was so dissatisfied with the share assigned to him by that monarch in the partition of Munster between him and Mac Carthy prince of Desmond, that he had lately engaged in a secret league with Dermod, whose daughter he had married, to assist each other to enlarge, as opportunity might occur, their respective dominions. But, on the first indications of hostilities on his part commencing in Munster, Roderick, always attentive to what passed in that country, led against him those forces he had raised against Dermod. The prince, thus attacked, sent immediately to demand the sti-
pulated

puted aid from his father-in-law Dermot, who, desirous to support him, entered into a treaty with the Ostmén of Dublin, by which he consented to leave the government of that city to Hasculf, a Dane, under fealty to himself. This convention being made, he commanded Fitzstephen to go instantly with the troops that served under his banner, and assist the prince of Limerick against O Conor. These quickly rendered Donald superior to his foes: the Irish monarch, defeated in several engagements, retired into Conaught; and Dermot, lifted up by the prosperity of his arms to higher views of ambition, was not satisfied with enjoying the kingdom of Leinster and all its dependencies, but conceived hopes of acquiring the monarchy of Ireland, which his grandfather had possessed. These thoughts he confided to Fitzstephen and Fitzgerald, who advised him, as the only means of success in so arduous a design, to renew his applications to the earl of Pembroke, and urge that lord to fulfill the covenant he had made without delay. A letter was accordingly written by Dermot, in which, after gently complaining of the earl for having deferred till the autumn to bring him those succours which ought to have come in the spring, he told him, that if he would now hasten over with a powerful force, it would be easy to add the other kingdoms of Ireland to that of Leinster, which, without his help, was subdued.

Hibern. Expugnata. l. i. c. 12.

BOOK IV.

Strongbow clearly perceiving, from all the accounts he received of what had been done in that island, and of what the adventurers had acquired by their service, that there was much to be gained by the enterprize now proposed, and no such danger to be feared as valour and good conduct might not find means to overcome, was desirous to accept the invitation. But, the letters patent which Dermod had brought over from King Henry containing only a licence to aid him in recovering his own kingdom of Leinster, which had been fully performed, it seemed necessary to the earl, before he engaged to undertake this new war, of a very different nature, that a further authority for it should be asked, and obtained, of his sovereign. Going therefore to the king, who was then in Normandy, he implored his permission to agree to the offers prest upon him by Dermod. Henry avoided to give him any positive answer; but he laid hold of some words which he thought might admit of a favourable construction, and returning into England remained quiet at Chepstow, till the beginning of May, when he sent over to Ireland a band of ten knights and seventy archers, under the conduct of Raymond, a very valiant young gentleman of his own household, who was son to an elder brother of Fitzstephen and Fitzgerald. These landed at a place not far distant from Waterford, under a rock called Dundolf, where they hastily raised a small fort of turf and wood,

Hibern. Exp-
pugnat. l. i.
c. 13.

wood, thinking they should be able to maintain themselves there till the earl of Pembroke's arrival. Hervey of Mountmaurice, Strongbow's uncle, with three knights, or men at arms, had joined them at their landing; and other succours were promised to be sent from Dermot; but, while these were preparing, the citizens of Waterford, who were jealous of foreign troops making a lodgement so near to the walls of their city, consulted with O Faolan, an Irish chieftain of Munster, who, being expelled from his country by the arms of Dermot, had taken refuge in their lands, with some of his people. He exhorted them to go and attack these invaders, before they had gained further strength. The counsel was approved: about three thousand marched out, and passed the river Suyr, which divided Leinster from Desmond, with an intention to storm the English fort. They came up to the ditch; when Raymond, transported by the ardour of his courage, or being persuaded that his safety consisted in shewing a contempt of the danger, sallied forth with his garrison, to give them battle. But the numbers were too unequal: he soon was forced to retire, and take shelter in the fort. His men had not time to shut the gate; so that some of the Ostmen, by whom they were closely pursued, entered into the fort; when Raymond suddenly turned, and with a thundering voice calling his soldiers to defend their last retreat, run the foremost of those enemies who had got within the gateway

BOOK IV. through the breast, with his sword. This animated his troops; they came boldly to assist him: all the Ostmén who had past the inclosure of the rampart were instantly slain, or driven back on those without; terror seized the whole army: Raymond again sallied forth: they all fled before him; above five hundred were cut to pieces in their flight; a much greater number was pushed into the sea, from the tops of the high rocks along the coast, which they had climbed up for safety; and seventy of the principal citizens of Waterford were taken captives. A council of war was held within the fort, as soon as the action was over, to know in what manner these prisoners should be treated. Raymond gave his opinion for letting them be ransomed; but Hervey of Mountmaurice, whose authority in the council was greater than his, advised to put them all to death, on account of the danger of keeping them in custody within the fort, and as a necessary example of terror to all Ireland, which a small number of foreigners could not hope to subdue, but by making themselves dreadful. In supporting this advice he demanded of Raymond, whether he thought, if these men had been the conquerors, they would have shewn any mercy to him or his soldiers? and concluded with saying, that they ought either manfully to pursue the design they had boldly undertaken, or return home, and be gentle and tender-hearted there. The whole council agreed to this inhuman opinion, and

Hibern. Ex-
pugnat. l. i.
c. 14, 15.

and it was executed with the most detestable BOOK IV.
 cruelty; those to whom the execution thereof Hibern. Expugnat.
 was committed first breaking the limbs of l. i. c. 15.
 these unfortunate prisoners, and then throw-
 ing them down, from the top of the cliffs, into
 the sea: an act which stains the whole glory
 of their honourable victory, and which the
 king should have punished, when he came into
 that country, by some very signal mark of his
 royal displeasure against the adviser!

During the course of these events, the earl Ibidem, c. 16.
 of Pembroke had past through all the coasts
 of South Wales from Chepstow to St. David's,
 gathering men to his standard. When he had
 compleated his levies, partly by his own vas-
 sals, and partly by volunteers whom poverty
 and courage incited to seek their fortune with
 him, he led them to embark in Milford Haven,
 where a fleet of transports, and all other ne-
 cessaries for the war he intended to make, had
 carefully been provided. But, as he was ready Neubrigensis, l. i. c. 26.
 to sail, a positive order was brought to him
 from Henry, by which he was forbidden to
 go out of the realm. This occasioned some
 pause and irresolution in his mind: Yet, think-
 ing himself ruined if he stayed in England,
 and having before him a fair prospect of wealth,
 honour, and power, in the enterprize to which
 he now was engaged, he boldly ventured to
 slight the king's command, and setting sail with Hibern. Expugnat. l. i. c. 16.
 an army of about twelve hundred men, in which
 number were included two hundred knights,
 landed near Waterford, on the twenty-third
 day of August, in the year eleven hundred and
 G 3 seventy.

BOOK IV. seventy. The inhabitants of that town, after the loss they had suffered, not daring to stir out of their gates, and the English garrison at Dundolf being masters of the country on that side of the river, no opposition was made to this descent. The earl, who chose to begin his operations in Ireland by taking Waterford, was desirous that the fame of so important an achievement should be all his own, and therefore would not wait for a conjunction with Dermot, nor draw the garrison from Dundolf; but, trusting wholly to the valour of his own men, allowed them only one day, which was the feast of St. Bartholomew, to refresh themselves after the fatigue of their voyage; and the next morning led them on, to storm the town. In this attempt they were twice repulsed by the citizens, assisted by O Faolan; but Strongbow, seeing that a house, contiguous to the wall, was propt on the outside with timber, ordered some of his knights to cut the props; which being done, the house fell, and with it part of the wall. His troops immediately entered the breach so made, and took the city, with great slaughter of the defenceless inhabitants, as well as of those they found in arms; every street being filled with bloody heaps of dead bodies. There was a tower, of which Reginald, a Dane, was governor, and to which, when they saw the enemy in the town, many persons of high rank had retired for safety. This also was taken, and in it Reginald himself, the Irish chief, O Faolan, and two

Hibern.
Expugnat.
l. i. c. 16.

two princes of the Oſtmen. Theſe laſt were cut to pieces, but the two former were ſaved at the interceſſion of Dermod, who now arrived in the city accompanied by Fitzſtephen, Fitzgerald, and Raymond. The earl received him in triumph; and this ſcene of horror was ſucceeded, within a few hours, by the feſtivities of a marriage celebrated between that lord and Eva, the eldeſt daughter of Dermod, according to the contract which her father had made in his treaty at Briſtol. Yet their joy was ſoon diſturbed: for intelligence came to Dermod that the city of Dublin, under its governor, Haſculf, had ſhaken off all obedience to his authority, and had drawn to its aid a multitude of Iriſh (one writer ſays thirty thouſand) alarmed by the report of an Engliſh invaſion; their monarch himſelf being encamped not far off, at a place called Clandolkan. For the immediate ſuppreſſion of this revolt, the king and his ſon-in-law thought it indiſpenſably neceſſary, without a moment's delay, to force a paſſage to Dublin. With this intent, leaving only ſuch a part of their troops as might be requiſite to ſecure the forts they poſſeſſed, they collected all the reſt, and marched boldly that way: but, having gained information that the woods and defiles between them and the city were occupied by the Iriſh, they left the uſual road, and winded along the tops of the mountains of Glendolow, which were entirely clear of wood. The ambuſhes laid for them being thus avoided, the enemy, ſeeing the good

Hibern.
Expugnat.
l. i. c. 16.

Lambeth
Manuſcr.

Hibern.
Expugnat.
l. i. c. 17.

BOOK VI. order of their march, to which no Irish troops had ever been accustomed, did not dare to attack them; so that they came, without loss, to the very walls of Dublin. As they lay before these, the Irish skirmished with them, ineffectually, three days; at the end of which, on intelligence given to Roderick, that his country of Conaught was invaded and laid waste by Donald O'Brian, he was advised by his council to trust at this juncture the safety of Dublin to the inhabitants of that city, and go to preserve his own people, and his own demesne lands, from hostile depredations. With this advice he complied, chusing out of two evils that which he thought the least. Hasculf, before his revolt, had prudently strengthened the military force of his town as much as was in his power, but had principally relied on the help of the Irish; which defence having failed, his people were thrown into a great consternation. So much had they degenerated from the martial spirit of the Danes and other brave northern nations, to which their progenitors originally belonged, that Dermot's secretary, Regan, being sent, in his name, to summon Hasculf to surrender the city to him, and to demand of the citizens thirty hostages for their future fidelity, all that desire of withdrawing themselves from his yoke, which had caused them to rebel, gave way to their fears; and they resolved to consent to these demands. But, while they were disputing on the choice of the hostages,

the

Irish Annals.

Hibern.
Expugnat.
l. i. c. 17.

Lambeth
Manuscr.
Hibern.
Expugnat.
l. i. c. 17.

the time granted to them for consultation was spent. Milo de Cogan, who led the English vanguard, observing the ramparts ill manned, attacked them suddenly, without orders; and his example was followed, in another quarter, by Raymond, who commanded the center; Dermod and the earl being posted, further off, in the rear. Surprise and terror, upon this unexpected assault, rendered the guards on the ramparts, who supposed that a peace had been absolutely concluded, incapable of resistance. The assailants scaled the walls, and entering into the streets massacred all they found there, till they had gained a compleat possession of the city, and of all its strong holds. Yet the governor and the most considerable citizens escaped from this slaughter, by throwing themselves into ships that lay ready in the harbour, and sailing from thence, with the help of a favourable wind, to some of the Orkney islands. The rich plunder of the houses was given to the soldiers: but, when Dermod made his entry into the city, which he did the same day, his thirst of revenge being satiated with the blood already shed there, he forbid any further destruction of the people, and having taken proper measures to secure to himself this important acquisition, gave the government of it to Milo de Cogan, at the recommendation of Strongbow, who entirely directed his military affairs, and whom he now sent from Dublin to invade and lay waste the territory of Meath.

In

Hibern.
Expugnat.
l. i. c. 17.

BOOK IV.

Irish Annals.

In the year eleven hundred and sixty-nine, Dermot O Melachlin, the lawful king of that realm, had been treacherously murdered by Donald, his kinsman, who usurping the government was justly expelled from it by Roderick O Conor. But that monarch, instead of causing (as he ought to have done) some other prince of the royal house of Meath to be regularly elected, made O Ruark a temporary administrator of the eastern part of that province, and retained the western himself. The king of Leinster, in hatred to his old enemy O Ruark, ordered the country thus under the rule of that chieftain, and likewise his patrimonial lands in East Conaught, to be cruelly ravaged; which being performed without any resistance on his part, the English forces turned southwards, and expelled the prince of Offory, Donchad Fitzpatrick, out of that principality; as they also did another prince of the family of O Conor out of Hy Faolan, or Ophally, (as it is called by some writers) another district of Leinster. The Irish annalists say, that Dermot himself accompanied his auxiliaries in these expeditions: but, whether they acted with him, or by commission from him, his employing them in this manner gave so great and just offence to the monarch of Ireland, that he wrote to him this letter:

“ Against the tenour of the peace concluded
 “ between us you have called over a mul-
 “ titude of foreigners into this island. Never-
 “ theless, while you confined yourself within
 “ the

“ the limits of your own kingdom of Leinster, we bore it with patience. But now, seeing that without regard to your oath, or compassion for your hostage delivered into our hands, you have insolently past the bounds prescribed to you, and the confines of your country, we give you notice: either restrain for the future the excursions of the foreigners whom you have brought over, or we will assuredly send you the head of your son cut off by our command.”

Dermód replied in a very disdainful style, and concluded by saying, “ he would not lay down his arms till he had conquered all Conaught, and acquired for himself the monarchy of Ireland, which he claimed from his grandfather Murogh O Brian.”

On receiving this answer, Roderick executed his threat, after having pronounced, from his royal seat of justice, a formal sentence of death on the unfortunate hostage.

When this sacrifice had been made to national vengeance, he assembled at Armagh the whole clergy of Ireland, who unanimously declared, that the present invasion of their country by the English ought to be accounted a judgement of God upon them for the sins of the nation, and more particularly for a practice of which they had long been guilty, the buying for slaves English children from pirates, or thieves who had stolen them, or from merchants who had bought them of needy

Hibern.
Expugnat.
l. i. c. 18.

needy or covetous parents; which infamous traffick was not uncommon in England. The council therefore decreed, and the legislature enacted, *that all English slaves, in the whole extent of Ireland, should presently be set free.*

This was evidently done to take from that nation the only colourable pretence of a publick quarrel, or complaint, against the Irish. But the king of England himself, before that time, had resolved, for reasons of policy, to put a stop to the conquests of the earl of Pembroke in Ireland. Nothing could be more repugnant to all his designs, or the interest of his people, than that a peer of his realm, at the head of an army of private adventurers, should obtain for himself the monarchy of that island, and hold it as a sovereign and independent state. Nor could he bear the provoking and audacious insult on his royal authority, which Strongbow had been guilty of, by going into Ireland against his express prohibition. As soon, therefore, as he heard that Waterford was taken, he published an edict, by which he strictly forbid all commerce with Ireland from any parts of his dominions, and commanded all his subjects who had gone over thither, to return home before the Easter festival next ensuing, on pain of perpetual banishment and forfeiture of all their estates. The earl quickly found himself in great want of all necessaries, and forsaken by many of his knights and soldiers. Alarmed at this, and consulting with the wisest of his friends,

how

Hibern.
Expugnat.
l. i. c. 19.

how to act in so perilous a state of affairs, he dispatched Raymond to Henry, who then was in Aquitaine, and sent by him a letter, in which he touched very lightly on a supposed consent of that monarch to his aiding of Dermod, given to him in Normandy the year before, and concluded with these words, "Whatsoever the favour of fortune has bestowed on me in Ireland, either of the patrimony of Dermod, or any other, as I owe it entirely to your royal munificence, so shall it all return to you, and be disposed of according to your absolute will and pleasure."

Hibern. Expugnat. l. i. c. 19.

This was what Henry wanted; but he prudently delayed to give any answer, till he had taken other measures to secure the attainment of the great end he had in view.

In the mean time King Dermod made another incursion into the country of O Ruark, his capital enemy and Roderick's warmest friend: but attempting to storm that prince's camp he was repulsed with disgrace, and soon afterwards retired into Leinster, leaving Donald O Melachlin, whom he had lately engaged to maintain by force of arms in the government of East-Meath, exposed to the attacks of O Ruark, who soon drove him from thence, while Roderick was employed in vigorously prosecuting the war in North-Munster against Donald O Brian. There can be no stronger proof of the total want of publick spirit in the Irish at this time, than that even the great object of expelling the British troops, whose depreda-

Irish Annals.

depredations were so grievous and whose continuance in Ireland was so formidable to them all, could not make them lay aside their private animosities, and join their monarch in supporting the national cause with their whole united strength!

About the close of this year, eleven hundred and seventy, King Dermot died at Fernes, of an unknown and horrid distemper (as the Irish annalists say) in a state of impenitence, and the victim of divine vengeance for the many wrongs he had done, and the many mischiefs his turbulent and lawless ambition, during a reign of four and forty years, had brought on his country. No mention is made by Giraldus Cambrensis, or other writers in those times, of any extraordinary circumstances in his sickness or death: but, had he never been guilty of any other crime than bringing the English adventurers to settle in Ireland and make conquests there, it would be no wonder that the hatred and rage of his countrymen should take every method of rendering his memory odious to posterity: nor can he justly be spoken of by any historian without detestation, as one whom neither divine nor human laws, nor the natural instinct of paternal affection to an innocent son, whose life he had pledged for the security of his own suspected faith, could restrain from pursuing the bent of his passions, which were of the worst kind, and which the courage and cunning observable in his character made more dangerous to the publick. The earl of Pembroke,

broke, his son-in-law, succeeded to his kingdom, pursuant to the compact between them, and in consequence, I presume, of a forced election made during the life-time of Dermod.

Not long afterwards, Hasculf, the late go-^{Hibern. Ex-}
 vernor of Dublin, having procured from the ^{pugnat. l. i.}
 Orcades an army of Norwegians and other in-^{c. 21.}
 habitants of those isles, well armed and well
 disciplined, under the conduct of John, sur-
 named *the Furious*, embarked them aboard of
 sixty ships, and sailing directly up the mouth
 of the Liffey, landed with them, and attacked
 the eastern gate of Dublin. Milo de Cogan,
 whom Strongbow had entrusted with the go-
 vernment of this capital of his kingdom, while
 he was employed in visiting and securing his
 other towns and forts, opposed this assault with
 great valour. The enemy was repulsed, with
 the loss of above five hundred men; and
 Cogan, full of ardour, sallied forth at the
 head of some of his knights and men at arms,
 to pursue the beaten troops, and infect their re-
 treat: but, their numbers being much superior
 to his, a sharp conflict ensued: many of his
 soldiers were slain, and the rest struck with
 terror, at seeing the thigh of a knight, com-
 pletely covered with iron, cut off by one blow
 of a Danish battle-axe; which exploit is attri-
 buted, by one of the writers of that age, to
 the Norwegian chief himself. At this instant,
 while the English, endeavouring to retire with-^{Lambeth}
 in their walls, were hard pressed in the entrance ^{Manuscr.}
 of the eastern gate of the city, Richard de ^{Hibern. Ex-}
 Cogan, ^{pugnat. l. i.}
^{c. 19.}

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Lambeth
Manuscr.

Cogan, Milo's brother, agreeably to an order given to him before, issued forth from another gate on the southern side of Dublin, with a body of horse; came round, unobserved, to the rear of the assailants, and suddenly raising a loud shout fell upon them; which unthought-of attack so dismayed them, that they immediately broke their ranks, and fled. Few were saved; the English cavalry intercepting their flight, and an Irish chieftain, or prince, who had given hostages to the governor, joining in the pursuit with all his clan. John *the Furious*, after making a very brave defence, was honourably slain upon the field of battle, by Walter de Riddlesford, an English knight, and the horsemen of his troop. Hasculf, flying to his ships, was taken prisoner on the shore, and brought into Dublin. When he appeared before the governor, and a great assembly of soldiers and citizens in the townhouse, he said, with a sullen haughtiness in his looks, "We came hither with few forces, and this was only a beginning of our efforts. If my life be saved, much greater will be made hereafter." Milo de Cogan, who intended to admit him to ransom, was so angry at the insolence of this bravado, that he commanded his head to be instantly cut off. It would have been a magnanimity more becoming a soldier, to have set him at liberty in contempt of his menace.

Hibern. Ex-
pugnat. l. i.
c. 22.

But, though this enterprise had failed, the Irish monarch, encouraged by Henry's proclamation,

mation, and the distress it had brought upon the earl of Pembroke, commanded the forces of the several princes obedient to his power to be all collected together; and being secretly assisted by Laurence O Tool, archbishop of Dublin, solicited Godred, king of Man, who held that, with the Hebrides and the Orkney isles, in fee of the crown of Norway, to assist him with a fleet, which might shut up, by sea, the city of Dublin, while the Irish army, assembled under his standard, should blockade it by land. The earl of Pembroke, informed of these designs, threw himself into the town, with Fitzgerald and Raymond. The last of these was returned without bringing from Henry, to whom he had been sent, any favourable answer; but yet with hopes which gave some encouragement to the earl to dispatch another agent, namely Hervey de Mountmaurice, to negotiate with that king.

Soon afterwards Godred, pursuant to his treaty with Roderick O Conor, sent a fleet of thirty ships, well manned with soldiers, to cruise before the port of Dublin; and a vast army of Irish beleaguered that city on every other side, not attempting to assault it, but proposing to reduce it more securely by famine. This blockade, which entirely prevented the importation of any provisions, had continued almost two months, when Donald Kavenagh, Dermot's son, having found means to elude the vigilance of the enemy, acquainted the earl of Pembroke that Fitzstephen was besieged,

Hibern.
Expugnat.
ut supra.

Lambeth
Manuscr.

BOOK IV.

Hibern. Ex-
pugnat. ut
suprà.

in his fort at Carrick near Wexford, by the citizens of that town and the Irish of Kingfale, to the number of three thousand, having with him but five knights, or men at arms, and a small company of archers; concluding, that if he was not relieved within three days, he must inevitably perish. The earl immediately assembled a council of war, and laid before them the intelligence he had received. Fitzgerald, who had left his wife and children in the custody of his half-brother Fitzstephen, within the fort of Carrick, represented to the council, how shameful it would be, to suffer that brave gentleman, who first had led them the way to all their conquests in Ireland, now to perish unassisted! He likewise shewed them to what an extremity of danger they themselves were reduced; their provisions almost consumed; no hopes of getting more, either by land or by sea; England rendered as hostile to them as Ireland itself. In these circumstances (he told them) they had no resource but their valour; which they ought to use, to the best advantage they could, before famine had deprived them of all their strength. He therefore advised them instantly to fall on the Irish, whose numbers, cowardly and ill-armed, would not be able to withstand their bold and unexpected attack. This opinion was strongly supported by Raymond, who added, that he thought, they should begin by assaulting the quarters of Roderick; because, if he, who was the chief of the whole confederacy, were vanquished,

the

the defeat of the rest would be easy. To this Strongbow agreed, and selected from his garrison three bodies of horse; the first, which formed the vanguard, consisting of twenty knights under the conduct of Raymond; the second, which formed the center, consisting of thirty, commanded by Milo de Cogan; and the third, which formed the rear, consisting of forty, led by himself and Fitzgerald. To these were added all the squires belonging to the knights, who fought, as they did, on horseback; and some infantry composed of the citizens of Dublin. According to one account, the whole number thus arrayed amounted to six hundred, each division having in it two hundred men.

Lambeth
Manuscr.

At the head of this small force, which was all that could be spared from the necessary guard of the city, did the earl sally forth, about the ninth hour of the day, to attack an army of thirty thousand men. These they found quite unguarded, apprehending no such attempt, and distracted with fear when they saw themselves assaulted. Roderick, into whose quarters they first broke, was then bathing. His people all fled, and it was with great difficulty that he himself escaped by flight, on the alarm being given. The same panic terror, at the approach of the English, seized and dissipated also the other armies of Irish, that were quartered to the south and north of Dublin. They scarce made any resistance. At the close of evening the English, having pushed the

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Lambeth
Manuscr.Hibern. Ex-
pugnat. ut
suprà.

purſuit as far as prudence would permit, returned into the city triumphant, and loaded with the ſpoils of the enemy, whoſe whole baggage was taken, and moreover ſuch a quantity of corn, meal, and pork, as was ſufficient to victual the city for a year. In all the action they had loſt but one man, a foot-foldier. Of the Iriſh forces were ſlain about fifteen hundred; but the whole multitude was diſperſed; and the next morning, all the ſhips which blocked up the port, ſeeing their confederates gone, failed away to the iſles from whence they came.

Strongbow, after he had left a proper garriſon in Dublin, and put it under the command of Milo de Cogan, marched, with the utmoſt diligence, to attempt the delivery of the fort of Carrick. On his way he was ſtopt, in the county of Idrone, at a narrow paſs, which O Ryan, the petty prince of that diſtrict, had ſeized and fortified. But no advantage of ground, or inequality of numbers, could balance the ſuperiority of valour, arms, and diſcipline, which the Engliſh troops, and the Welch, incorporated with them in this ſervice, had over the Iriſh. Strongbow ordered the poſt to be attacked: his commands were bravely executed: the young Meyler Fitz Henry, whoſe father was a baſtard of King Henry the Firſt by Neſta the mother of Fitzſtephen and Fitzgerald, diſtinguiſhed himſelf here above all the other knights. Nevertheless, by a ſtone, which one of the Iriſh

caſt

cast at him, he was knockt off his horse: but an arrow shot from the bow of one Nicholas, a monk, whose profession did not hinder him from taking part in this warfare, having mortally wounded O Ryan, the death of their chief deprived his army of all spirit: they fled; and the enemy, with the loss of only one man, made their way through the pass to the open and level country. But, as they advanced towards Wexford, they were met by certain messengers, who informed them that the castle, which they were going to relieve, had been taken by a fraud. For, after several assaults, in which the besiegers, who were more than twenty to one, had shamefully been repulsed by the valour of the garrison, and particularly of one knight, or man at arms, whose name was William Nott; the bishops of Wexford and Kildare, with many more of the clergy, arrayed in their sacred vestments, came to the brink of the ditch, and took a solemn oath, in the hearing of the English, on some relicks of saints which they had brought for this purpose, that the Irish were masters of Dublin; that the earl of Pembroke, and Fitzgerald, and all the English in that city, were cut to pieces; and that Roderick, at the head of all the Irish troops (those of Leinster included) was hastening from thence to take possession of Wexford. They added, that out of pure affection to Fitzstephen, as he had behaved himself mildly and generously towards them in his government there, they gave him this information,

Hibern. Ex-
pugnat. l. i.
c. 28.

Ibidem, c. 25.

BOOK IV. to the end that, before the arrival of these forces, which it would be impossible for him to resist, he, and all who were with him, might, in safety and freedom, be sent over to Wales. Deceived by this perjury, and the sacred character and dignity of those who swore, he surrendered his fortress, which he had no sooner done, than some of his people were murdered; and all the others, after having been cruelly beaten, were chained and thrown into prison; he himself being detained, under strict custody, in irons. But, upon hearing that Strongbow had forced the Irish to raise the siege of Dublin, and was advancing to Wexford, the associates in this impious and execrable fraud were so dismayed, that they set fire to their city, and, with their effects and all the captives they had taken, retired into an isle in the mouth of the harbour, which was a sanctuary much respected by the Irish. Yet, not thinking it safe to trust to this, they notified to the earl, that, if he followed them thither, they would send him the heads of all the prisoners there confined. On receiving this message, he turned aside from Wexford, and went to Waterford, where he found his plenipotentiary, Hervey de Mountmaurice, just landed from England. This gentleman brought him letters, from the friends in whose opinion he most confided, which exhorted him, without losing a moment's time, to repair to Henry in that realm. He did so, and found him at Newnham in Glou-

Hibern. Expugnatio, l. i. c. 28.

Gloucestershire, preparing to pass, with an BOOK IV.
army, into Ireland.

Whatever hopes had been given of a kind reception, the indignation of Henry against the earl appeared so implacable at his first arrival, that he even refused to admit him into his presence: but the majesty of the crown, which his former contempt had offended, having been satisfied by his present humiliation, and every point which the king was desirous to obtain having been cheerfully granted, at length, by the intervention of Hervey of Mountmaurice, a reconciliation was concluded on the following conditions.

The earl was obliged to renew his homage and fealty, and to give up to the king, in full and absolute property, the metropolitan city of Dublin, with the cantreds adjacent, and all the other sea-port towns, with all the castles or fortresses possessed by him in Ireland; the rest of his acquisitions or conquests in that island remaining to him and his heirs, under homage and fealty to the crown of England. Henry also consented to restore to him his whole estate in this kingdom, which had justly been seized, as a forfeiture to the crown, on the act of disobedience he had committed. This agreement being made, they went together to Pembroke, where the king resided some time, while his officers were collecting in Milford Haven a navy of four hundred and forty large ships, to transport from thence into Ireland him and his army, which consisted of about five hundred knights, all heavy-armed horsemen, with their

Neubrigensis,
l. ii. c. 26.

Hibern. Ex-
pugnat. l. i.
c. 28, 29.
Hoveden.
Benedict.
Abbas, ad
ann. 1171.
Irish Annals.

BOOK IV. squires or attendants, who composed a lighter-armed cavalry, and a very numerous infantry, all expert archers.

Dr. Powel's
Welsh Chron.
sub ann. 1169.
See also
Wynn's Hist.
of Wales.

The state of Wales had undergone a great alteration since the year eleven hundred and sixty-nine, by the death of Owen Gwyneth. That prince had reigned, with a very high reputation, two and thirty years, being a courageous, a prudent, and a fortunate commander; no less beloved by his people, on account of his civil virtues and good government of his state, than admired for his valour and military talents. He may indeed be accused of having violated the fealty he had sworn to King Henry, without sufficient cause; but by his countrymen this fault was accounted a virtue, as, in revolting from the allegiance he had been forced to submit to, he complied with the general desire of the nation, and put himself at the head of what they deemed an honourable confederacy to recover their ancient independence and freedom. After his decease great disputes arose in his family concerning the succession. He had left by two wives, who were of very noble blood, six sons and two daughters, and by different concubines nine illegitimate sons. Prince Jorwerth, the eldest of those born in matrimony, having in his youth received a blow which broke his nose, was therefore esteemed by the Welsh unfit to reign; and, their customs admitting bastards to inherit the government, Howel, a natural son of Owen by an Irish woman of low

low birth, succeeded to his father, because he was reputed a more valiant foldier than any of his brothers: the Welch esteeming their princes (as their own Chronicle tells us) *not by their mothers and birth, but by their prowess and valour*. Yet David, Owen's eldest son by his second wife Christiana, who descended from the ancient kings of Wales, would not submit to this prince, who was born of a foreigner; but raised against him an army equal to his, at the head of which, in the year eleven hundred and seventy, he fought with him and slew him. By this victory he obtained the dominion of North Wales; none of his brothers aspiring to contend with him for it, after the death of Howel; but, during the rage of this unnatural war, the confederacy of the Welch, for the total expulsion of the English and Flemings out of their country, was interrupted and broken; which gave those colonies time to recover their strength. Nor would David, in the beginning of a yet unsettled government, after so much blood had been spilt, and the force of North Wales so impaired by civil discord, draw on himself the resentment of a powerful king, whose friendship and aid he might want. Rhees ap Gryffyth indeed, who was at all times the first to take up arms, and the last to lay them down, had made an inroad into the territories of Owen Cyvelioc, one of Henry's Welch vassals in a part of Powisland: but now, when that monarch was come into his neighbourhood with a formidable army,

Dr. Powell's
Welsh Chron.
p. 226.

Ibid. p. 227.
Wynn's Hist.
of Wales,
ad ann. 1170.

BOOK IV.

Welsh Chron.
p. 30.
Wynn's Hist.
of Wales.

army, which his forces alone could not resist, he listened to overtures of reconciliation, which encouraged him to go and throw himself at the feet of his offended sovereign. Henry, whose nature inclined him to forgive a suppliant enemy, and whose policy made him wish a pacification of Wales in this conjuncture, received him very graciously, and confirmed to him all he then possessed; but took from him fourteen hostages, and demanded of him, for the service of his Irish expedition, three hundred horses and fifty yoke of oxen. These he promised to give, and departed so well satisfied with the favours he had now obtained from the king, that he forgot the severity used by that prince against his sons in the year eleven hundred and sixty-five, or thought it so just, on account of the many repeated violations of faith on his side, as not to deserve his resentment. Henry, finding that his spirit would more easily be subdued by benefits than by force, continued to shew him great kindness, and at Pembroke granted to him the whole province of Cardigan, with the three districts of Stratywy, Arustly, and Elvel. Grateful returns being made for these concessions, he added yet a further mark of grace and confidence, by restoring to him Howel, his most beloved son, who had been one of the hostages demanded at the time of his late submission.

We are also told, by an ancient contemporary historian, that, while the king was at
Pembroke,

Pembroke, David ap Owen, with many of the nobles of North Wales, came to wait on him there; and we may be sure that this prince was not admitted to his presence without acknowledging his sovereignty by doing him homage.

Thus, while Henry was meditating the conquest of Ireland, the kingdoms, or principalities, of North and South Wales were reduced to obedience, by the terror of his power, without his having been forced to draw the sword! But, in passing through Monmouthshire, he thought it necessary to take into his own custody Caerleon upon Uske, which was before in the hands of Jorwerth a Welsh lord, whose fidelity he suspected. He likewise garrisoned all the castles of the English barons in South Wales, being dissatisfied with those lords for having made no opposition to the earl of Pembroke's departure with his fleet from their coasts, though they knew it was contrary to their sovereign's orders, publicly declared at that time. Having thus secured all behind him, he sailed from Milford Haven with his army to Ireland, and after a prosperous voyage landed near Waterford, on the feast of St. Luke, in the year eleven hundred and seventy-one.

During the absence of Strongbow, Raymond staying at Waterford with the troops the earl had led thither, ORuark took advantage of the weakness of the garrison which remained in Dublin, to make an attempt on that city. He brought before it an army of undisciplined Irish,

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A.D. 1171.

Welsh Chron.
p. 230.
Hibern. Ex-
pugnat. l. i.
c. 29.

Benedict.
Abbas.
Hoveden, ad
ann. 1171.

Hibern. Ex-
pugnat. l. i.
c. 29.
Irish Annals.

Irish, hastily raised, for this purpose, in East Conaught and in Ulster: but, while these, with loud cries, and a kind of furious, disordered impetuosity, were rushing on to assault the ditch and walls, Milo de Cogan sallied out, and unexpectedly charging them, at the head of a small but valiant troop, put to flight the whole multitude, with a dreadful slaughter of them, which the pursuers only stopped from a weariness of killing. Among the dead was the prince of Breffny, O Ruark's son, a youth of extraordinary merit. The terror caused by this defeat prevented any further hostilities of the Irish against the English in Leinster, till the arrival of Henry, and contributed to produce a general despair in the nation of being able to resist the mighty forces he brought, which it would be in his power to augment at pleasure, by new supplies out of England. Nor could any desire of saving the liberty of their country from a foreign domination suspend the effects of that discord among the Irish themselves, the causes of which were laid in the bad constitution of their political system; for, even at this crisis, a civil war in North Ulster prevented those of that province from giving any attention to the defence of the island, which so potent a king was openly and notoriously preparing to invade. It must in truth be acknowledged that no enterprize of this kind was ever better timed; all circumstances concurring to facilitate the success of Henry's design, which, though formed by ambition, was founded

founded on reasons of the most consummate BOOK IV.
prudence.

Soon after the king's arrival at Waterford, the citizens of Wexford brought to him their captive, Fitzstephen, as a criminal, in bonds; making a merit of having delivered him up to the justice of his sovereign, without whose leave they supposed he had presumed to make war (the first of all his countrymen) against them and the Irish, in a time of settled peace, a peace that for many ages had never been violated between Ireland and England. Henry shewed them great kindness, and after having, in their presence, reprimanded Fitzstephen, with much seeming indignation, for his rashness and presumption, he added terrible menaces of the punishments due to an offence of this nature, and sent him loaded with chains, to be kept under strict custody, as a prisoner of state, in Reginald's tower.

This gentleman might have pleaded, in vindication of himself, the letters patent which the king had given to Dermot: but he was conscious that by some of his achievements in Ireland he had exceeded the bounds prescribed in those letters; and it is not improbable that he secretly knew, or might comfort himself with the hope, that the violence of the king's resentment was feigned. Certain it is, that Henry sought, by all his acts at this time, rather to appear the protector than the enemy of Ireland; which produced such happy effects, that Dermot Mac Carthy, prince of Desmond, Ibidem.
voluntarily

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A. D. 1175.

voluntarily came and submitted himself to him, swore fealty, and gave him hostages for his faithful performance of the obligations to which he then was bound, particularly for the payment of an annual tribute. This, I presume, was accepted in lieu of those fruits of feudal tenure, which were paid by the vassals of the crown in England, but which could not be so easily levied in Ireland, till a better settlement should be made of the English government there; which would necessarily be a work of time.

The prince of Desmond bore the title of King of Cork, Desmond having been anciently a portion of that district which is called in some histories, and even charters of those times, *the kingdom of Cork*: but the city itself, with some lands adjacent thereunto, was in the hands of the Ostmén; and Henry made it a part of the demesne of the crown, leaving the rest of the province to be held of him in chief, together with Desmond, by this prince. From Waterford he advanced, at the head of his army, to Lismore, and from thence to Cashel, near which, on the banks of the river Shure, Donald O Brian, prince, or king, of Limerick and of Thomond, came to meet him, swore fealty, and agreed to pay him tribute: as did likewise, soon afterwards, the prince of Offory, with all the lesser potentates of the South of Ireland, whom he sent back to their several territories carested and loaded with presents. From Cashel he returned to Waterford, where his prisoner Fitzstephen being again brought before him,

Ware, c. xxvii.

Hibern. Ex-
pugnat. l. i.
c. 31.

him, he willingly was persuaded, at the inter-
 ception of his nobles, to set him free; but took
 from him Wexford, with the territory there-
 unto belonging, and annexed it (as he had done
 the other towns of the Ostmen) to his royal
 demesne in that island; thinking it necessary,
 according to the principles he had followed in
 his agreement with Strongbow, that all the
 fortified towns, and more especially the sea-
 ports, should be in his own hands. Nor did
 the Wexfordians desire any greater favour of
 him, than to hold their city under him, as his
 immediate tenants, instead of being subjected
 to the government of Fitzstephen, whose ven-
 geance they feared, or of any other English
 lord.

After a short abode at Waterford the king
 marched to Dublin. The citizens, whose chief
 commerce depended upon England, and was
 so great in those days that William of New-
 bury says, *it rivalled that of London*, received
 him with much joy. Thither came to him
 O Ruark, and many potentates of the north
 of Ireland, who rendered themselves vassals
 and tributaries to him, as those of the south
 had done before. But the supreme monarch of
 Ireland, Roderick, king of Conaught, unwill-
 ing to give up the sovereignty he enjoyed,
 delayed to follow the example of these inferior
 princes. Yet, after some hesitation, he yielded
 to meet, on the borders of his kingdom, Hugh
 de Lacy and William Fitzaldelm, impowered
 by commission from Henry to receive his alle-
 giance,

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 A. D. 1171.

V. Nribue-
 genf. l. ii.
 c. 26.
 Hibern. Ex-
 pugnat. l. i.
 c. 32.
 Benedict.
 Abbas.
 Hoveden.

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Hibern. Ex-
pugnāt. ut
suprà.

giance, and settle the tribute he was to pay; which they accordingly did, and, in the name of their master, granted him peace on those terms. Giraldus Cambrensis observes, that this prince's submission *did virtually subject the whole monarchy of Ireland, and all the inferior kings or chiefs, of whom he was the head and ruler, to the dominion of Henry.* But there were none of these, except the princes of Ulster, who, before his submission, had not personally, *by their own immediate act and deed,* acknowledged that dominion: and in Ulster itself the southern provinces, governed by Murogh O Carol, had by him been subjected to the sovereignty of England; though the northern parts, which their distance and the winter now coming on secured against any danger of a present attack, remained as yet independent. These undoubtedly would have been reduced to obedience before the end of the next summer, if other affairs had not forced the English monarch to leave his work unfinished.

Benedict.
Abb. tom. i.
ad ann. 1171.
Hoveden,
pars posterior,
f. 301.

Some ancient writers affirm, that on Henry's first landing, the archbishops, bishops and abbots of Ireland *had all received that prince as lord and king of the whole island,* swearing fealty to him and to his heirs for ever, and testifying their acknowledgement of his sovereignty by charters, which they gave to him as perpetual memorials thereof. Yet the silence of Giraldus Cambrensis on this fact, and the improbability that all the prelates of Ireland should have been permitted to go to Henry at Waterford,

Waterford, and own him for their sovereign, before any of the kings, or other inferior rulers of their several countries, had submitted to his power, would incline one to doubt whether the time of these acts, said to have been done by those prelates, is accurately stated.

Henry kept the Christmas festival of the year eleven hundred and seventy-one in Dublin, the metropolis of his new-acquired kingdom: but, there being no house in that city spacious enough to contain the numerous court, expected to attend him upon this occasion, he ordered one to be built, without the walls, not of brick or of stone, for the construction of which there was not time, but of smoothed twigs or wattles, after the Irish fashion. Here he feasted all the princes and nobility of Ireland who had done homage to him, with a magnificence proper to draw their respect, and an affability requisite to conciliate their affection.

Hibern. Expugnata. l. i. c. 32.

Soon afterwards he convened, by his royal mandate, at Cashel, a national synod of all the Irish clergy, for the reformation of their church, agreeably to the promise he had made to Pope Adrian, as the condition upon which that pontiff granted to him the very extraordinary bull before recited. In this assembly, to which he sent one of his chaplains and two dignified clergymen, the bishop of Lismore presided, as apostolical legate, though the archbishops of Dublin and of Tuam were present. Several canons were made, and ratified by the king.

Ibidem, c. 34.

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for the due celebration of regular and orderly marriages, and for the annulling of those which were incestuous and illicit; for the baptising of children within the church, and the catechising of them at the church-door; for the burying of the dead, who had been duly confessed, with the proper rites and ceremonies; and finally, for the establishment of an entire conformity in divine worship, and all matters relating thereunto, between England and Ireland.

Tom. i.
p. 30.

The abuse, which gave occasion to one of these canons, concerning the baptism of infants, is thus explained by Benedict Abbot of Peterborough. He says "it was the custom, in
" several parts of Ireland, that, on the birth
" of a child, his father, or any other person,
" plunged him three times in water, or, if the
" family was not very poor, in *milk*; which
" water, or *milk*, after the immersion was over,
" was thrown into the sink: to prevent which
" profanation, the council made this decree
" for baptising in the church." Others were made for the particular benefit of the clergy; to enforce the payment of tythes to the parochial priests; to exempt all the lands and possessions of the church from all impositions exacted by the laity, especially those most usual in Ireland; and to declare, that, as in the committing of homicide they were free from the correction of secular justice, so should they be from any share with the other kindred of a layman convicted thereof, in the payment
of

of a pecuniary composition, or fine, which the laws of Ireland allowed to the family of the slain.

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It certainly was not agreeable to the inclinations of Henry, or his system of government, that any immunities of this kind, and more especially the last-mentioned, should be granted to the clergy: but they had been made the conditions of Adrian's bull; and he thought it necessary to establish his dominion in Ireland, not merely on force, and the submission of the Irish princes and nobles, which in some was unwilling, and in few quite spontaneous, but on the real attachment of a party there to his service. Such a party could most easily, in the outset of his reign, be found in the clergy. The abbot of Peterborough says, that, before the holding of this council, the greater part of the Irish nation had never paid tythes, nor understood that they were due: and therefore the establishing of this imposition by the royal authority, and enforcing obedience to it, was such a bribe to the priesthood, as, together with the exemption from all criminal justice decreed at the same time in their behalf, must have rendered them very zealous to reduce the whole island under the power of Henry, and maintain it in subjection to his commands.

It appears that this council was not merely a synod of ecclesiasticks, but a national assembly, or parliament; for by one of its decrees a liberty was given to the Irish, under certain regulations, to dispose of their personal

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estates by will. The acts of it concluded with these remarkable words: "It is most proper and just, that as Ireland has, by divine Providence, received a lord *and king* from England, so likewise she should from thence receive a better form of life. For to that magnanimous king both the church and state of this island entirely owe whatever advantage they have gained in the settlement of peace and the encrease of religion: seeing that before his coming into Ireland many kinds of evils had, for a long time past, prevailed there, which by his power and goodness are now abolished."

It is reasonable to infer from these last words, that a reformation had been made, not only in the spiritual, but civil state of Ireland, before this time, by giving the Irish a better constitution of government, and a better rule of life and action than their barbarous brehon law.

V. M. Paris,
ad ann. 1172.

Accordingly we are told, by Matthew Paris, that a council, or parliament, was held by Henry at Lismore, *where the laws of England were thankfully received by all present, and an oath was taken to observe them.* It also appears, that in this, or some other assembled while that prince was in Ireland, he enacted statute laws for the government of that kingdom; there being a reference to one of them and express confirmation thereof, in an Irish act of the second year of Richard the Third.

V. Rot. Pat.
2 Ric. III.
c. 8.

Nor can any thing be more clear from the grants and charters of those times, than that
the

the English tenures, and the laws or customs relating thereunto, were introduced into Ireland, and courts of justice established there upon the English model, and sheriffs and other officers of law and police appointed by this king. But whether M. Paris was correct in his account of the place where the English laws were received and sworn to by the Irish, I think somewhat doubtful; as it seems probable that this act, which was to bind the whole nation, was done at Dublin in the solemnity of the christmas festival, when Henry was attended by the princes and nobility of the kingdom, who had there paid him their homage, rather than at Lismore, where he made no long abode, and from whence he was gone, (as appears by the accounts of contemporary historians) before homage had been done to him by any Irish prince, except Dermot Mac Carthy. However this may have been, the communicating to Ireland the laws and customs of England was unquestionably a great boon to the people of that country, and a most wise act of policy in the king who did it; but to render it effectual more time was required, and a more absolute power over the whole Irish nation than he yet had established. In fact we find, that the disturbances which afterwards ensued so hindered and frustrated the operation of this act, that King John thought it necessary to re-enact it: for it appears by a statute of King Henry the Third, that *his father had brought over into Ireland men*

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Harris's

Hibern.

p. 122, 123.

Ibiden.

p. 115—122.

Serjeant

Mayart's An-

swer to Sir R.

Bolton.

v. Rot. Pat.

11 Hen. III.

Membr. 3.

BOOK IV. *skilled in the laws, by whose concurrent advice, and at the request of the Irish, he ordained and commanded the laws of England to be observed in Ireland, and left the said laws reduced into writing, under his seal, in the exchequer at Dublin.* King John therefore completed, as far as in him lay, what Henry the Second had begun; but the full execution of this purpose of both these princes was obstructed by the troubles that arose in their kingdoms, and by the revolts of the Irish against them and their successors in the throne of England.

Hibern. Expugnat. l. i. c. 34.

Giraldus Cambrensis takes notice, that the archbishop of Armagh was prevented by age and infirmity from attending at Cashel; but says, he afterwards waited on the king at Dublin, and shewed great obsequiousness to him in all his desires. Perhaps the secret reason of his non-attendance at Cashel was an unwillingness to yield the precedence in that council to the bishop of Lismore, as the pope's legate; which commission he might think ought not to have been separated from the primacy of Ireland, if exercised at all in that kingdom. And indeed, as it had been formerly granted to Malachy, it seems strange that it was not continued to this prelate! He was now very aged, and esteemed a saint by the people, who saw with admiration, that, wherever he went, a white cow was led after him, and that her milk was all his food!

V. G. Cambrenf. Hibern. Expugnat. l. i. c. 35.

Soon after the feast of the purification of the Blessed Virgin, Henry departed from Dublin, and

and went to Wexford, in which town he remained till he returned into England. During the whole winter season and a part of the spring, for five successive months, the weather had been so extremely and constantly tempestuous, that all navigation had been stopt, and all correspondence cut off, between Ireland and the other dominions of the king, who very impatiently bore this long delay of the information he wanted on many points of importance. But, about the middle of Lent, he received advice, that the Cardinals Albert and Theodine, legates *à latere*, whom Pope Alexander the Third had sent into Normandy, on the affair of Becket's death, had been there some months waiting for him, and began to threaten now, that, if he did not speedily come to them, they would lay all his dominions under an interdict. He much desired to make a longer stay in Ireland, that he might complete his acquisition of it, by subduing all Ulster, and doing many other things, which yet remained to be done, for the better settling of his authority, and ordering of the government, in the provinces subject to him: but he saw the necessity of going into Normandy, to conclude with the legates, and hoped he should be able to return into Ireland when that pressing affair was dispatched. Before his departure he took the properest measures that the exigency of the time would admit of, for the support and security of the dominion he had gained.

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A. D. 1172.

Benedict.

Abbas.

Hoveden.

Brompton,

sub ann. 1172.

Hibern.

Expugnat.

l. i. c. 36.

Epist. S. T.

88. l. 5.

BOOK IV.

A. D. 1172.

Hibern. Expugnatio. l. i.

c. 37.

Benedict.

Abbas.

Hoveden, ad

ann. 1172.

See the Charter in the Appendix to this Book, from Ware's Antiquit. Hibern. c. 27.

He left the earl of Pembroke possessor of Leinster, as a fief of the English crown, under homage to himself, which that lord had performed when they were together in Dublin: but, to balance the greatness of so powerful a vassal, he appointed Hugh de Lacy justiciary of Ireland, which office was the same, in the absence of the king, as lord lieutenant or viceroy; and he likewise gave him the government of the royal city of Dublin, with orders to build a castle there, leaving under his command Fitzstephen and Fitzgerald, with forty other knights. It has been mentioned before, that O Ruark had obtained from Roderick O Conor the temporary administration of East Meath, that monarch retaining the western parts of the province in his own hands. But Henry now was induced to grant the whole, as it had been enjoyed by Murchad O Melachlin, (called in the charter Hu Melachlin) or by any other before or after that king, with all its appurtenances, to his minister Hugh de Lacy, who was to hold it immediately of him and his heirs, by the service of fifty knights. The charter is dated at Wexford, and the reader will find it in the appendix to this book. Such a gift was apparently prejudicial and offensive to O Ruark and O Conor; nor do we find on what ground, or on what pretence of justice, it was made by King Henry. Indeed the claim of those princes to the possession of any part of Meath was mere usurpation; and, therefore, the granting it entire to this baron

in

in fee was not an act so injurious, or so likely to excite the resentment of the Irish, as if a prince of the royal house of Meath had been thus dispossessed of his right. Yet, still, the transferring an ancient kingdom of Ireland from the present Irish possessors, and from every branch of that race which could legally claim the inheritance of it, to an English lord and his heirs, was a measure which the nation would not easily approve, or even forgive. One should think that some agreement, with relation to this province, between Henry and Roderick, must have preceded this grant; so as that the former might plead the consent of the latter for taking from O Ruark the administration thereof, and conferring it upon Lacy. As for Donald O Melachlin, he had forfeited all his right by the murder of his predecessor; and it is probable that the other collateral claimants, wanting power to support, thought it advisable to give up, or to wave, their pretensions. Be this as it may, the subjection of all Meath, and of Leinster, to two English barons who held in chief of the king, gave great strength to the power of the English crown in Ireland; though, perhaps, it may be doubtful, whether it would not have been a more politic measure to have divided the former into several baronies, rather than to have given it entire to one vassal, who had also the government of the capital city, and the high office of grand justiciary of the realm. But the greatness of Earl Strongbow was the principal object of Henry's jealousy in that island,

and

BOOK IV. and he desired to check it by raising up against him a powerful rival there. He also committed the city of Waterford to Humphrey de Bohun, and Wexford to William Fitzaldelm: the first of these having under him Robert Fitzbernard and Hugh de Gundeville; the latter Philip de Hastings and Philip de Breuse; with garrisons in each place of forty knights. For the greater security of these towns and his own domination therein, the king ordered castles to be built in both with all possible expedition, and took into his own service Milo de Cogan and Raymond, with other principal officers of the earl of Pembroke's late army.

Benedict.
Abbas.
Hoveden, ad
ann. 1172.
Hibern.
Expugnat.
l. i. c. 35.

He seems to have placed some confidence in the Ostmen, as well affected to him; and probably they were so, on account of their commerce with his subjects in England: yet it may be presumed he would have left stronger garrisons in all the towns they possessed, if it had been in his power: but distempers, which the food and climate of Ireland produced in his soldiers, who were unaccustomed to them, constrained him to carry the greater part of his army back with him into England, for the recovery of their health, and to stop the further progress of the epidemical fluxes which began to rage among them. Nevertheless he intended to return in a short time, with equal or greater forces: but such accidents intervened as unhappily prevented his executing this purpose. As his present affairs would admit of no delay, he ordered his troops to Waterford, where

where his fleet was then lying; and on Easter Monday, in the year eleven hundred and seventy-two, sailing from Wexford, with only two ships in his train, arrived the same day at Portfinnan, in South Wales; his troops having landed, the day before, at Pembroke.

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It has been mentioned, that, in going through Wales into Ireland, Henry had taken the custody of Caerleon upon Uske from Jorwerth, a Welsh lord, whose fidelity he suspected. This seemed necessary, as a fort had been lately erected out of the ruins of that most ancient city, where great monuments still remained of the Roman magnificence, even in the times of which I write. But Jorwerth thought himself injured, and, when the king was departed, sent Howel and Owen his sons, with others of his kindred, and all the force they could raise, to recover possession, both of the town and of the fort. They succeeded in part of this attempt; but not being able to take the fort they set fire to the town, which they had taken, and left it. As Henry passed near that district in returning from Ireland, he desired to see Jorwerth at a certain place on the borders, and sent him a safe conduct for himself and his sons, with a purpose of making an amicable end of this quarrel; that no commotions arising from thence in Wales might disturb the realm in his absence. Jorwerth ordered his son Owen, who happened to be then in another part of the country, to join him on the road; but the young man, in obedience to this command, passing

Welsh Chron.
Camden's
Brit.

passing by the earl of Glocester's new castle upon Uike, the garrison of that place, on a sudden, fell upon him and slew him. It is probable that they knew not of his having a safe conduct; but his father, upon hearing of his being killed, turned back, and gathering together all the Welsh whom he or his friends could engage in their family quarrel, took revenge by incursions into those parts of Monmouthshire which were possessed by the English, and the bordering counties of England. Henry, informed of these events, made Rhee ap Gryffyth chief justice over all South Wales, as the best means in his power to quiet things there, through the authority of this prince, the natural lord of that country, and head of the family thus aggrieved; while he himself, being called by more important affairs, went to Portsmouth, and from thence, taking with him the young king, his eldest son, passed over the channel.

V. Hoveden,
f. 303. ad
ann. 1172.

We have a letter from the cardinal legates to the archbishop of Ravenna, in which they tell him, “ that Henry, as soon as he knew of
“ their arrival in his territories, removing all
“ impediments which might cause delay, and
“ laying aside all the business incumbent upon
“ him, had hastened from Ireland, through
“ England into Normandy, and immediately
“ after his landing in that duchy had sent to
“ them many and honourable messengers, to
“ desire them to name a place of conference
“ with him; and that, accordingly, they had
“ appointed

“ appointed a convent at Savigni. That he
 “ met them there attended by many of his no-
 “ bility, both spiritual and temporal. That,
 “ some disagreement arising, he departed from
 “ the conference, with a seeming purpose of
 “ instantly returning to England; and they in-
 “ tended to have gone, the following day, to
 “ Avranches: but, in the morning, there came
 “ to them the bishop of Lisieux and two arch-
 “ deacons, who granted, in his name, all that
 “ they had insisted on, and he confirmed it at
 “ Avranches, upon the Sunday before Ascen-
 “ sion-day.” It is not easy to deny the truth
 of this evidence; yet, among the epistles of
 John of Salisbury, there is one from the king
 to the bishop of Exeter, which says, “ that,
 “ at first, he found the legates too severe, and
 “ seemingly inflexible; but that afterwards,
 “ against the expectations of all men, a recon-
 “ ciliation followed, to the honour of God and
 “ the church, and to his honour and that of
 “ his kingdom.” However this may have been,
 on what conditions the reconciliation was con-
 cluded at Avranches we certainly know, by a
 charter, or instrument, drawn up in the form
 of a letter to the king, by both the legates, to
 be preserved as an evidence and record thereof.
 They were as follows:

1. That, in the course of the next twelve-
 month from the approaching feast of Pentecost,
 the king should give so much money as the
 knights templars should deem sufficient to main-
 tain two hundred knights for the defence of
 the

BOOK IV.

A. D. 1172.

V. Epistolas
Joh. Sarisb.
epist. 290.V. Epist. 8.
Thom. l. v.
epist. 89.
Hoveden, sub
ann. 1172.
f. 303.
See also Ap-
pendix.

BOOK IV. the Holy Land during the term of one year.
 A. D. 1172. But that, from the next Christmas-day, he should take the cross himself for the term of three years, and the following summer go in person to the Holy Land, unless the obligation were dispensed with by Pope Alexander himself, or his catholick successors. Nevertheless, if, from the pressing necessity of the Christians in Spain, he should go thither to make war against the Saracens, he might in that case defer his journey to Jerusalem, for so much time as he should spend in such an expedition.

2. That he neither should hinder himself, nor suffer others to hinder, appeals from being made freely, *with good faith, and without fraud or evil intention*, in ecclesiastical causes to the Roman pontiff; so that they may be tried and determined according to his judgment. *Yet with a proviso, that if any appellants were suspected by the king, they should give him security, that they would not attempt any thing to the prejudice of him or his kingdom.*

3. That he should absolutely give up those constitutions or customs, which had been introduced *in his time* against the church of his kingdom.

4. That, if any lands had been taken from the see of Canterbury, he should fully restore them, as they were held by that see a year before Archbishop Becket went out of England.

5. That to all the clergy, and laity of either sex, who had been deprived of their possessions on the account of that prelate, he should likewise restore those possessions, with his peace and favour.

All these injunctions the legates, by the authority of the pope, commanded the king to observe with truth and sincerity, for the remission of his sins; *because* (as they set forth in the preamble to the articles) *though he had taken in their presence a voluntary oath, that he neither ordered nor desired the murder of Becket, and was exceedingly grieved when the report thereof was brought to his ears, yet he feared that the malefactors who had slain that prelate took occasion to commit that wicked act from the passion and perturbation they saw in him.* Accordingly he now (by way of penance for that fault) publickly swore to perform the articles above-mentioned, relating to the holy war, and (in order to obtain a reconciliation with the church) all the others agreed to between him and the legates; the young king, his son, whom he had called out of England into Normandy for this purpose, joining with him, as a further security to the church, in the latter part of this oath.

Such were the conditions of Henry's absolution; and better conditions they appear to have been (all circumstances considered) than he had reason to expect: for the most inconvenient and troublesome injunction, that of taking the cross, he might hope to get rid of, by a papal dispensation.

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A. D. 1172.

dispensation, grounded on excuses which time and various incidents might afford. And to the church he gave up nothing, by the terms of this agreement, which he had not before proposed to yield: for, in the contest with Becket, he had frequently offered to annul any laws which should not be found to have been part of the constitution of England in his grandfather's reign. Wherefore, in writing an account of this business to the bishop of Exeter, when he mentions the article by which he consented *to abolish all the customs introduced in his time against the church of his kingdom*, he adds, *which I reckon to be few or none*.

The only particular, wherein he might seem to recede from the Clarendon statutes, was with regard to the restraint which one of them had laid on appeals to the see of Rome: but even here, by the right he reserved to himself of demanding security from any *suspected* appellants, he kept in his hands a strong curb, which he might use at his pleasure, over the liberty granted. Upon the whole, he justly boasted to the bishop of Exeter, that he had concluded this agreement *to his own honour*. Indeed the season for proceeding against him with severity, or imposing hard terms of absolution, was past. This he felt; and it seems, that, as circumstances then stood, the pope was little less afraid of his enmity than he of the pope's: for the legates speak with great pleasure, in their narrative before cited, of his having sworn, with his son, at the close of
 2 this

this business, to adhere to Alexander *so long as he should treat them like Christian and Catholic Kings*; which condition implied, that if, on any pretence, he should pass any sentence of excommunication against either of them, they would abandon his party.

The legates add, in their letter, that King Henry (the father) promised some other things, *which of his own free accord he was to do, but which it was not proper to set down in writing*. What these were is unknown. They might be voluntary penances which he secretly offered to inflict on himself, or private bounties to the pope, or to those who supported the interests of that pontiff in Italy or in France: but, certainly, he did not, *of his own free accord*, promise greater concessions, in any points that related to his disputes with the church, than the legates had now asked.

As for the oath which he took to clear his reputation of any intentional guilt in the murder of Becket, he chose to take it, not only that he might the more easily obtain absolution, but for the sake of declaring his innocence to the world in the most solemn manner: And that he did not swear falsely we have grounds to believe, from the endeavours he used to stop the four knights on the first notice he had of their departure; from his sending other persons, with orders, not to kill, but to arrest the archbishop; and from his natural temper, which, being apt to take fire upon any provocation, vented its fury in violent expressions of anger,

BOOK IV. such as his reason, when he had time to cool,
 A. D. 1172. did not suffer him to carry into action. Of
 this there is one most remarkable instance,
 V. Epist. Joh. which I find in a letter, written by John of
 Sarisb. 1159. Salisbury during the year eleven hundred and
 sixty-six. Information is there given to the
 bishop of Exeter, that, in the council assembled
 at Chinon in Touraine on occasion of Becket's
 declared resolution to excommunicate Henry,
 the offended monarch broke out, before the
 whole assembly, into passionate complaints
 against that prelate, even to the shedding of
 tears; and concluded by saying, *that they were*
all traitors, who did not diligently endeavour
to deliver and free him from the hostile attacks
of this one man: for which expression he was
 then reprov'd with some warmth by the arch-
 bishop of Rouen.

Now these words, which his passion drew
 so openly from him, and which remained
 without effect, were of much the same pur-
 port and force as those, which afterwards
 caused the assassination of Becket: but when
 princes intend to order murders, they take more
 private methods, and carefully hide the design,
 except from those to whose hands the execution
 is intrusted, or who gave the advice. It seems
 therefore but justice to impute to Henry no
 guilt in what was done against Becket beyond
 that intemperance in expressing his anger which
 he owned and lamented. But how then shall
 we account for his suffering the assassins to
 remain unpunished? Some modern writers sup-
 pose

pose that this forbearance was owing to his fear of infringing the privileges of the church, which, though incapable of inflicting any corporal penalties, claimed to itself the sole power of punishing its own members. And this indeed was the reason, why the pope did not make the putting to death the four knights, and all their accomplices, the first condition of giving absolution to Henry. But any right in the church to such an exclusive jurisdiction had never yet been acknowledged by that monarch himself, who, on the contrary, had maintained, with insuperable firmness, his own inherent prerogative to punish all offences committed in his realm; but more especially murders. The departing from that principle in this particular instance might naturally produce untoward suspicions: whereas, certainly, his exerting the justice of the crown upon such an occasion would not have been deemed, by the clergy or the pope, an irremissible sin. The truth of this matter appears to be very well stated by William of Newbury, who lived and wrote in those times. He says “ *that Henry was the more inconsolably afflicted, because he was sensible that whether he spared those homicides, or did not spare them, the minds of men would be inclined to think ill of him. For, if he granted impunity to such heinous criminals, it would be imagined he had given encouragement and authority to the crime: but, if he punished that in them which it was supposed they had not undertaken without or-*

Newbrigen-
fis, Rerum
Anglorum,
l. ii. c. 21.

BOOK IV.

A. D. 1172.

ders from him, he would be spoken of as guilty of a double wickedness. Wherefore he thought it best to spare them, and out of regard to his own fame, as well as their safety, delivered them over to the apostolical see, that they might undergo a solemn penance."

The same writer adds, "that, being stung with remorse, they willingly went to Rome, and were sent by the pope from thence to Jerusalem, where, after they had, for some years, performed not remissly the penance enjoined them, they all ended their lives." But in this account of their death he certainly was mistaken: for it appears by records, that Hugh de Morville was alive in the second year of King John; though their having all perished within less than three years after their crime was committed is mentioned as an extraordinary judgement of God, and a divine attestation of the sanctity of Becket, by some of the writers of his life.

V. Cart.
z Johan.
Memb. 9.

V. Histor.
Quadripart.

Gervase, ad
ann. 1172.

A little before the absolution of Henry, his eldest son and Margaret, his daughter-in-law, had gone over into England, and were crowned together, at Winchester, by the archbishop of Rouen, assisted by the bishops of Evereux and Worcester. The employing in this ministry a foreign primate was a new and extraordinary act. During the vacancy of the see of Canterbury it naturally belonged to the archbishop of York, or the bishop of London: but the king of France insisting, that neither those prelates, nor the bishop of Salisbury, should

should have any part in it, on account of the enmity which he knew had subsisted between them and Becket, this expedient was advised, or approved of, by the legates. A better would have been, to have filled the see of Canterbury before this coronation : but Henry, with good reason, deferred the election of a successor to Becket, till he should be absolved by the papal authority, for fear that, while he was negotiating with Rome, new disturbances might arise from another primate, in England, attached to the person and principles of the former : and Louis, who had thought the not crowning his daughter together with her husband, in the year eleven hundred and seventy, an affront and indignity, for which he ought to demand the most speedy reparation, would endure no delay. There does not appear to have been any real necessity for repeating the coronation of the young king ; but the doubts raised by Becket, whether, during his lifetime, the performing of that ceremony by any other bishop did not make it null and void, may have caused this repetition, which was not disagreeable to the usage of that age. As soon as it was over, this prince returned to Caen, where he was present at his father's absolution by the legates ; and then, no urgent business requiring his longer stay abroad, he went back into England, about the end of September in the year eleven hundred and seventy-two.

Not long afterwards measures were taken in that kingdom for the electing of a new archbishop of Canterbury. The prior and monks of the convent of Christchurch in Canterbury demanded a *free election*, by which they meant to exclude the bishops of the province from any share with them in it, and the king from recommending. As this could not be granted, the young Henry and his ministers, when they had laboured in vain to overcome their obstinacy, sent Odo the prior with some of his monks into Normandy, to King Henry the father, who did his utmost to gain the votes of the convent, through the prior's mediation, for the bishop of Bayeux, a man of a gentle and tractable disposition: but Odo was desirous that another Becket should be chosen; and though Henry, for the sake of an object so important to the quiet of his realm, stooped even to supplications which did not well become the majesty of the crown, it was all to no purpose. The condescension of the king served only to encrease the haughtiness of the monk, who returned to England resolved to persevere in opposing the election of the prelate recommended by that prince. Nothing therefore was done for several months in this business.

But in all other points the affairs of Henry now wore a most flattering aspect. His reconciliation with Rome, his near alliance with Louis, his subsidiary treaties with the earls of Boulogne and of Flanders, his confederacy with
the

the emperor and with the very potent duke of Saxony and Bavaria, who had married his daughter, seemed to promise him a secure and lasting tranquillity in all his foreign dominions. The commotions in Wales were appeased. The king of Scotland, unaided by the arms of France, could not hope to succeed in a war against England, which kingdom, in all appearance, was more free from any causes of internal disorders than it had been since the first coming in of the Normans. The administration of government was mild and just; the title to the crown undisputed. Nothing had happened to lessen the honour and dignity of the English name in any part of the world. The English empire was increased, without any loss of blood, and with little expence of treasure, by the acquisition of Ireland, the most beneficial to England that could be made. But while Henry was thinking how to perfect this achievement, which he had not wholly finished, and extending his cares to many other great objects for the good of his family, or the happiness of his people, with equal affection to both, his peace was disturbed by an unsuspected, unnatural, and impious conspiracy, of his family itself, with many peers of his realm, and foreign powers, against him; a conspiracy, which burst forth at once, like the sudden eruption of a volcano, and shook all his dominions to the very foundations.

BOOK IV.

A. D. 1172.

L. III. c. 25.

Diceto Imag.
Hist: ad ann.
1172.

The first contriver of this treason was Eleanor, his queen, incited to it by rage at finding herself neglected, and other women preferred to her, by a husband she had loved, William of Newbury says, that, when she ceased to breed children, the king forsook her bed. Love and pride had been always her predominant passions, and both were offended by this infidelity, which having changed her too violent and ill-requited fondness into a rancorous hatred, she sought revenge by the most nefarious means. For, while her husband was in Ireland, she infused into the mind of their eldest son, Henry, by the help of Radulph de Faie, her uncle, and Hugh de Saintemaure, who had worked themselves into the favour of that prince, suggestions of the incongruity of his being a king, and not exercising the power which belonged to that office without controul. His own temper inclining him to entertain such ideas, he was easily brought to think, that his father, by having placed the crown on his head, had taken it off from his own. When Eleanor found that this notion, frequently inculcated and confirmed by her agents about him, as well as by herself, had prepared him to rebell whenever she could see a fit opportunity and sufficient strength to support him, she proceeded to combine many persons of great power in a confederacy with him, but by what methods, or at what particular times, we are not well informed. It only appears, that in the course

of

of the year eleven hundred and seventy-two Adam de Port, being arraigned of traiterously conspiring the death of the king, fled out of the realm before a trial, and was outlawed; but we do not find that the king had any information of the extent of the plot; no other person being charged, nor any of those measures taken, which must naturally have resulted from the least intelligence given of the nature of those intrigues, with which there is too much cause to believe this execrable design was connected. The king of France is, by some contemporary historians, said to have been one of the first who advised and promoted the forming of a league, in which were engaged the two earls of Flanders and Boulogne, for the dethroning of Henry, and giving the young king, his eldest son, the sole government of the kingdom. It seems, they depended on Henry's being detained a longer time in Ireland. For, when Louis heard of his arrival at Barfleur, he exclaimed, *that this prince, now in Ireland, now in England, and now in Normandy, must be rather supposed to fly, than ride, or sail!* Words which lead one to think, that he by whom they were spoken was not only surprized, but disappointed and vexed, at the great haste made by Henry, which disconcerted the schemes his enemies had contrived to annoy him in his absence.

Diceto Imag.

Hist. ad ann.

1172.

About the feast of All Saints in the year eleven hundred and seventy-two, the young king and his queen were ordered by his father

to

BOOK IV.

A. D. 1172.

Benedict.

Abbas.

Hoveden.

V. Authores
citos ut su-
pra.

to come over into Normandy, which command (it is said) he very unwillingly obeyed. If this reluctance was not feigned, it may either have arisen from his wishing to begin the rebellion in England without any longer delay, or from apprehensions that his father, having discovered his treason, might intend to arrest him: but so little did Henry suspect the machinations between Louis and him, that the principal cause of sending for him and his consort was that monarch's desire to see them at Paris. They went thither, and after a short stay with him there, during which the whole plan of the rebellion was settled, they returned into Normandy; which some authors suppose they were constrained to do by a peremptory order from Henry, because he feared (as they say) the fraud and malice of Louis: but more probably their departure was owing to other reasons, and such as satisfied Louis that they might go back without danger: for otherwise he would not have permitted them to leave him. Nor did Henry put his son under any restraint when he had him again in his power, but left him behind in Normandy with his wife, and went himself to keep his Christmas in Anjou. Before they separated, that prince, pursuant to a counsel given to him by Louis, demanded of his father to be put in present possession of Normandy, Anjou, or England: which being refused, he said nothing, but determined to execute his treasonable designs, of which this demand was a prelude; being certainly rather made,

made, that he might plead the denial to justify his revolt, than with any hope to obtain it.

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A. D. 1172.

After Christmas Henry sent for his son to come to him at Chinon in Anjou; from whence they went together, in company with Queen Eleanor, into Auvergne, where he had appointed a meeting with the earl of Savoy and Morienne, in order to conclude a treaty of marriage between his youngest son John, who had hardly yet completed the seventh year of his age, and the earl's eldest daughter. As it never took effect, it will be enough to say here, that, in case the earl's death without a son by the lady to whom he was married, it would have given to John all that prince's dominions, and a large share of them even if he should have a son, which contingency was thought very unlikely to happen. It proceeded so far, that the princess was delivered to King Henry the father, to be kept in his custody, and under his tuition, till a consummation of the marriage at a proper age of the parties. But, in a subsequent conference with the earl at Limoges, Henry mentioning the three castles of Mirebeau, Chinon, and Loudun, (which after the death of his brother, Prince Geoffry Plantagenet, had all been repaired) as an inheritance he intended to leave to John by his last will, the young king, who was present, pertinaciously refused to give his consent to this bequest, though the benefits likely to accrue to his family from such an alliance would have justified a much greater. Hereupon, and

Diceto Imag.
Hist. col. 561.
Gervase.
Benedict.
Abbas.
Hoveden, ad
ann. 1173.

BOOK IV. in consequence of some intelligence given by
 A. D. 1173. the earl of Toulouse, who had now made a
 firm agreement with Henry, on terms I shall
 mention more particularly hereafter, that mo-
 narch removed from the family of his son a
 young lord named Asculfe de St. Hilaire, and
 others of his household, whose evil counsels
 he thought had instigated their master to this
 undutiful conduct; and placed about him new
 servants, on whose loyalty and approved af-
 fection to himself he more confidently relied.
 But the root of the mischief lay deeper, and
 the extent of it reached further, than he yet
 knew, or suspected. For, soon afterwards,
 while he and his son were returning from
 Limoges into Normandy, that prince left him
 at Chinon, and with all the speed he could
 make rode before him to Alençon; from
 whence, as if his intention had been to go to
 Caen, he proceeded to Argenton, and taking
 there a short rest went out of that town about
 day-break, and hastened to Chartres, where the
 French court then resided. His father, who had
 followed him as far as Alençon, lay there the same
 night on which he lay at Argenton: but
 being informed the next day of the road he had
 taken, instead of continuing his journey to Caen
 or Rouen, he visited all his castles on the fron-
 tier of France, and caused them to be speedily
 repaired and provided with whatsoever was ne-
 cessary for their defence, but more especially
 Gisors, which he strengthened and supplied to
 the utmost of his power. He then viewed all
 his castles in the dutchy of Normandy with
 the

Chron. Vaf-
 con.
 Robert de
 Monte.
 Pere Daniel,
 Louis VII.

Benedict.
 Abbas, p. 47.
 Pet. Blesens.
 Epist.

the same prudent care, and sent letters to the governors of his several fortresses, in Aquitaine, in Anjou, in Bretagne, and in England, commanding them to fortify and guard well the places committed to their keeping. For he now apprehended the extent of that danger, to which hitherto he had been unaccountably blind. Soon after the event which impelled him to take these necessary precautions, Richard Barre, whom, in recompence for many faithful services, he had, not long before, made chancellor to his son, delivered up the great seal: nor was less integrity found in the officers he had placed in the household of his son, who all returned to him, and brought with them the whole baggage belonging to their master. But he sent them back to that prince with his arms and accoutrements, and with silver plate for his use, and horses and garments. Whether he did this in hopes that so generous a proceeding might touch his heart, or with an intention to keep these men about him as spies, or for both these reasons conjointly, may be matter of doubt: but they were not permitted to continue in his service, unless they would take an oath of fealty to him, without any reserve of that higher allegiance they owed to his father; which all of them did, except three, whom he therefore dismissed. Many noblemen of Normandy, Aquitaine, and Bretagne, had fled with him to Chartres, and many more followed soon; his flight having been evidently the effect of a settled and concerted

Benedict.
Abbas.

BOOK IV. concerted scheme. But the difficulty he found to escape from his father obliged him to leave his queen behind; which surely he did not mean to do, when first he formed that design; and this circumstance must have been a great mortification, both to him and to Louis. While he was in Auvergne, and at Limoges, he had frequent opportunities of seeing his mother; and there she, doubtless, not only fomented and confirmed his bad dispositions against the king his father, but agreed with him to take an open part herself, and also engage his two brothers, Richard and Geoffry, who were with her at this time (the eldest of them being then about sixteen years old, and the other about fifteen) to join in his revolt. This resolution was soon discovered to Henry after the young king's departure: for, among the epistles of his secretary Peter of Blois, there is one which appears to have been written to her, about this time, from the archbishop of Rouen, at her husband's desire, reprimanding her for having wilfully separated herself from him, and encouraged her children to rebel against him; exhorting her to return, together with her sons, and assuring her, if she did, that she and they should be kindly and affectionately treated, but threatening, if she did not, that he, as her diocesan, would proceed against her with ecclesiastical censures. This prelate was now joined with the bishop of Lisieux in an embassy to Louis on this arduous business, the success of which is related in a letter

V. P. Blefens.
Epist. 154.
See also Appendix.

letter to Henry from those ministers themselves, which, together with that before-mentioned, the reader may see in the Appendix to this book. The embassadors tell the king, “ that they “ could draw from Louis no answer to the “ salutation delivered by them in his name, “ though they had taken great care to make “ it as agreeable and soothing as they could : “ but that, when they opened to that prince “ the particulars of the business upon which “ they were sent, repeatedly inculcating the “ benefits of peace, and mischiefs of dissention, “ he heard them patiently, to the end, without any interruption, and, after some pause, began contumeliously to reproach the king, their master, with many artifices and frauds, by which, he complained, he had often been circumvented. He said, that Henry had frequently, on very slight pretences, violated the faith which they had mutually plighted the one to the other, and shewn himself so unsteady, that for the future he would put no confidence in him. He added, that, before the young king came to Chartres, he had taken himself a determinate resolution to make war against Henry ; and, in declaring the causes which induced him to adhere to this intent, he mentioned Henry’s detaining the young queen from her husband, his not returning her portion, his having infligated the subjects of the crown of France, from the mountains of Auvergne as far as the Rhone, to become enemies to their sovereign,

BOOK IV. “ and having also, in prejudice to the rights
 A. D. 1173. “ of that crown, admitted the earl of Tou-
 “ louse to do him *liege homage*. Finally he
 “ swore, that he would never again conclude
 “ with Henry, either treaty, or agreement,
 “ without the consent of the sons and wife of
 “ that prince.”

On these complaints it will be necessary to make some observations. With regard to the detaining of the young queen from her husband, it was a consequence of the flight and rebellion of her husband, which he and his father-in-law might well expect: nor could Henry consent, while this rebellion continued, to put out of his power so valuable a pledge, which might be a means of obtaining the peace he wished. As for the restitution of her portion, namely, Gisors and the Vexin, the demand of it appears entirely groundless: and this province, with the castle, being a necessary barrier to the dutchy of Normandy on that side, the giving it up, at this time, to the young queen or her husband, would have been opening that country to enemies and invaders. Of the rebellion, which Henry was accused of exciting, I find no intimation, in the history of those times; nor was he ever in circumstances, after his return out of Ireland, which could incline him to kindle a war in France. But, if the cession he had made of the dutchy of Aquitaine to his second son, Richard, by the treaty of Montmirail, was really so compleat, as the account of that treaty

treaty in John of Salisbury's letters affirms it to have been, it is hard to say on what ground his receiving of *liege homage* from the earl of Toulouse was supported. Yet there is reason to believe, that if Henry, in this act, had been guilty of a culpable irregularity, he would have been brought to correct it, by amicable methods, without a war. And most certainly neither this, nor any former offence he had given to Louis, was sufficient to justify that prince in abetting such an atrocious rebellion of his wife and sons against him, a rebellion which violated the first laws of society and the highest duties of nature.

The two prelates concluded the account of their embassy with exhorting their master, "to be very careful in guarding his several fortresses, and more especially *his own life*: for all France had unanimously conspired his destruction, and did not think it enough to lay waste all his territories with fire and sword, but *plotted execrable wickedness against his person*." V. Epist. Pet. Blesens. 153.

Before this letter came to him, or about the same time, Richard and Geoffry were sent by their mother to Paris; and soon afterwards, thinking herself not in safety, she attempted, disguised in the habit of a man, to follow them thither, but was arrested and kept in close confinement. By whom, or where she was seized, and whether, under this sudden and terrible change of her fortune, her violent spirit retained all its natural fierceness; or whether, Benedict. Abbas. Brompton, ad ann. 1173. Gervase, Chron. col. 1424.

VOL. V. L finding

finding herself in the power of her husband, she sought to merit his pardon by any confessions or discoveries to him, are circumstances not mentioned in the history of those times. Probably none but the king's most trusted friends were let into the secrets of this dark transaction; but it is strange, that more particulars concerning her arrest, which could hardly be concealed from the knowledge of the publick, have not been transmitted to us by some of the many contemporary writers!

This Fury being chained, Henry found it less difficult to contend with his other enemies: yet their number was so great, and some of them were so powerful, that a heart, not endued with a most extraordinary firmness, would have fainted and sunk into despair. The Easter festival coming on, Louis summoned a great council to meet him at Paris, and in the face of his whole realm assembled there took an oath, that he would assist, to the utmost of his power, the young Henry and his brothers against their father, and endeavour, by force of arms, to put him in possession of the kingdom of England. He likewise caused all the nobles, who were present in that assembly, to take a similar oath, having first received one from the young king and his brothers, that they would not depart from him, nor make peace with their father, unless he and the barons of his realm should consent to it, and concur therein.

This

This confederacy being thus declared and cemented, the young king received homage from the earl of Flanders and his brother, the earl of Boulogne, which he madly purchased by making a grant to the former of the whole county of Kent with the castles of Dover and Rochester, besides a clear annuity of a thousand pounds sterling from other lands in England; and to the latter of the foke of Kirketon in Lindsey, and the province of Mortagne in Normandy. Homage was also done to him by the earl of Blois, in return for a grant of the castle of Amboise with all his rights in Touraine, and for an extinction of the claim which he and his father had made to Chateau Renard, over and above an annuity of five hundred pounds in Angevin money. These donations, and others, to many nobles of France, which the contemporary authors say they have omitted to mention on account of their number, were sealed with a great seal, representing that of England, and made in France, by an order of the French king, for this purpose. Similar bribes were employed to engage in the party of the young king of England many lords of that realm. Particular notice is taken of a grant to Hugh Bigot, and to his heirs for ever, of the honour of Eye and the royal castle of Norwich. About the same time the earldom of Northumberland as far as the Tyne was also granted by this prince to William the Lion, king of Scotland, and to his brother David that of Huntington, with Cambridgeshire annexed to it, as an aug-

V. Authores
citatos ut su-
pra.

BOOK IV.
A. D. 1173.

mentation of the gift conferred upon him before by King Henry the father. One is hardly more shocked at the impiety of the son in entering into this league, than at his folly in thus yielding the keys of his realm to the king of Scotland and to the earl of Flanders: especially as the latter, in conjunction with his brother, the earl of Boulogne, was very potent at sea, and but six years before, without any just cause of war, had, together with that prince, notoriously designed an invasion of England. The only excuse for this act, and for the profuse alienations of the royal demesne by the other grants above-mentioned, is the youth of the donor, on the simplicity of which and the passions attending it those artfully worked, to draw him into these mischiefs, who ought to have been most careful and vigilant to save him from them. But what alleviate his guilt much aggravates theirs, and particularly his mother's.

Benedict.
Abbas.
Hoveden.
Gervase.
Brompton.

Soon after the Easter holydays, hostilities were begun, on the part of the rebels, by great devastations of Henry's demesnes in France, to which, in many of the provinces subject to him there, but a faint resistance was made on the part of his friends; the apprehension of his ruin, and of their being exposed to the vengeance of his sons for their adherence to him so intimidating many, as to render them backward and unactive in his cause. Every hour now brought him a more alarming account of some new defection from him; and he experienced

rienced the truth of what he had been warned
 of, by the archbishop of Rouen and the bishop
 of Lisieux, in the letter before-cited, "that
 "several, even of those who were fed at his
 "table with him, only waited for an oppor-
 "tunity of rebelling against him; and that
 "the knowledge of his having so many inter-
 "tine enemies was the chief encouragement to
 "the others, who were not his subjects, to
 "make this war upon him." Under these cir-
 cumstances necessity constrained him to a mea-
 sure which he otherwise would have shunned.
 The same species of mercenaries that King
 Stephen had employed, and he himself, about
 twenty years before, had expelled out of Eng-
 land, was still subsisting in France, in Ger-
 many, and in Brabant, under different chiefs,
 who kept them always well trained. In this
 extremity therefore, deserted and betrayed,
 with the basest disloyalty, by many of his sub-
 jects, and doubtful of all, fearing even for his
 life, if he had not a guard, to which he might
 trust it more safely, than he could to the
 knights of his own household itself, he had
 recourse to these men, as the only help he
 could find which was ready to answer the exi-
 gence of the danger. From his known libe-
 rality to soldiers of merit they were well in-
 clined to his service: the bargain was soon
 concluded; and twenty thousand of them were
 taken into his pay, before any great army was
 brought into the field by the confederate
 princes. Some of these he disposed of in se-

BOOK IV.

 A. D. 1173.
 V. Epist. Pet.
 Blefens. 153.

 Neubrigenfis,
 l. ii. c. 27.
 Benedict.
 Abbas.
 Hoveden.
 Gervase.
 Brompton,
 sub ann. 1173.

BOOK IV.
A. D. 1173.

V. Authores
circa ut fu-
pra.

curing those castles and other fortified places, where the fidelity of the garrisons or inhabitants was most doubtful, and kept the rest about him, to oppose them to his enemies, wheresoever they should attack him. Thus did the money he had prudently laid up in his treasury, when it seemed to all the world he had nothing to fear, procure him safety in the hour of his greatest distress: for many of his vassals, who before were wavering and uncertain, seeing him strengthened by so great and so formidable a body of veteran troops, adhered to him with more courage; and some who had intended to go over to the rebels were deterred from the execution of that design: so that he soon was enabled to join other forces to these mercenary bands, and such as he could employ with less reluctance. Nor yet did he neglect to endeavour to support the justice of his cause by the aid of spiritual weapons. Children in arms against their father and their sovereign, to tear his crown from his head before his death, out of impatience to rule, when the eldest of them had scarce attained to manhood, were, together with all the advisers and accomplices of their revolt, the fittest objects of ecclesiastical censures, that Rome could possibly find in the whole extent of those countries over which she had stretched her spiritual jurisdiction. Henry therefore applied, with peculiar earnestness, to that see, for a general sentence of excommunication against his three rebellious sons, and all their adherents.

A. D. 1173.
V. P. Blefens.
Epist. 136, in
Appendice.

In writing to Alexander on this important subject, he made use of the pen of his learned secretary, the celebrated Peter of Blois, whose credit with that pontiff, and all the college of cardinals, he knew to be great. The wording of the letter was probably trusted to him, and not sufficiently attended to by the king in that hurry of business. He drew it with much zeal for the cause of his master, but with some expressions of a dangerous tendency to the dignity and independence of his crown: for he made him speak as if he held his kingdom in a feudal subjection to the pope. Henry certainly acknowledged no such subjection before or after this time; nor is it credible that he meant to submit to it now, or authorize such a notion. But, that the pope was supreme lord of all Catholic kingdoms, and that all kings were his vassals, was asserted, in that age, by many of the clergy, and more especially by the monks. Peter of Blois therefore wrote according to his own principles of religion and government, or accommodated his style to the wishes and pretensions of the court of Rome; and it may reasonably be supposed that the letter was sent without being shewn to the king. It does not appear that Alexander grounded upon it any demand of homage or fealty from that prince, or ever considered it in any other light than as a compliment paid to him by the courtesy of the secretary, on which no stress could be laid. But he found himself perplexed in what manner to act. For,

BOOK IV. the king of France being joined with Henry's
 A. D. 1173. sons in this war, and the principal fomenter
 of their rebellion, whatever censures were ful-
 minated against the rebels, and against their
 notorious adherents, must necessarily fall on
 that monarch, the most devoted friend to the
 person of the pope, and the most obsequious
 servant of the pontificate. On the other hand,
 there was something so very odious and shock-
 ing in this unnatural and unprovoked revolt,
 such a complication of impiety, treason, and
 ingratitude, that Alexander was sensible he
 should bring a great scandal upon himself and
 his see, if he did not use that authority which
 he claimed as inherent in the successors of St.
 Peter, to endeavour to suppress it, at the re-
 quest of a king to whom he had personally
 the highest obligations, which were known to
 all Europe. In this dilemma he chose rather
 to act as a mediator between the two parties,
 than offensively against either; but so to me-
 diate, as warmly to interpose his good offices
 in favour of Henry, and labour to procure an
 honourable peace for that king. His legates
 therefore employed their utmost endeavours to
 extinguish the flame that was ready to break
 out; while Henry lay at Rouen, observing
 the motions of the confederate princes, and
 collecting, not only from his territories in
 France, but from England and Ireland, all
 the troops he could venture to draw out of
 those islands, which, joined to the mercenaries
 he had hired before, composed such an army
 of

Benedict.
 Abbas.
 Gervase.
 Brompton.

of well-disciplined soldiers as did not fear to oppose the much more numerous forces, which the king of France and the earl of Flanders were diligently raising in all their dominions.

A contemporary writer affirms, that in Flanders these levies met with great opposition from the chief nobility there; but, the power of the earl overcoming their honest dislike to the service, he and his brother were ready, in the month of June eleven hundred and seventy-three, to act in concert with Louis, who had now raised a mighty host, in which were no fewer than seven thousand knights, and who proposed to begin the operations of the war by invading Normandy on the side of Verneuil in Perche, while the two earls should attack it on the side of Picardy, by laying siege to Aumale. Henry had provided for the safety of both these frontiers by good garrisons in the forts, committing the custody of the town and castle of Verneuil to the valiant Hugh de Lacy, and Hugh de Beauchamp; and that of Aumale (or Albemarle, as it was then called) to the earl who derived his title from that castle, but had also very great possessions in England. On the twenty-ninth day of June the Flemings invested the latter of these places, which, though able to have made a long defence, was quickly surrendered to them. The whole garrison and the earl of Albemarle himself were made prisoners at discretion; but he purchased his freedom by consenting to give up to the young King of England all his other forts and castles, which
laid

Diceto Imag.
Hist. f. 571.

Neubrigenfis,
l. ii. c. 28.
Benedict.
Abbas.
Hoveden.
Gervase.
Brompton.
Diceto, ad
ann. 1173.

BOOK IV.
A. D. 1173.

laid him under a violent suspicion of perfidy in the loss of this place, though he threw the blame of it on the treachery of the garrison, who forced him (as he said) to this very dishonourable capitulation. From Aumale the two brothers, much elated with so prosperous a beginning of the war, went to besiege Neuchatel, another royal fortress, which, though better defended, was obliged to capitulate, in less than a fortnight, by the mighty force of the engines wherewith it was battered. But the earl of Boulogne in this siege (as some historians of that age affirm), or (according to others) in that of the castle of Driencourt, which was taken by the Flemings soon after Neuchatel, received a wound in the knee, by an arrow from a cross-bow, and died within a few days. The earl of Flanders hereupon retired out of Normandy, accusing himself, with loud and repeated lamentations, of having merited and drawn down this judgement of God on his brother and himself, by making war against a prince, his near kinsman, who had conferred on him many benefits, and never done him any wrong, to support the quarrel of a most unnatural son.

These reproaches of his conscience, awakened by calamity, were indeed too well founded. Nor had his brother less cause for penitence on his death-bed; he also having been particularly bound to the service of that king whom he had conspired to dethrone, not only by the solemn oaths of fealty, but by favours received, and stipends.

Neubrigensis,
l. ii. c. 28.
Gervase.
Benedict.
Abbas.
Hoveden.

stipends paid till the time of his taking part in this treason. Well therefore might he think the loss of his life, in the outset of this war, a just punishment of his guilt; and well might the earl of Flanders, who had drawn him into it, tremble himself at the thought of the vengeance of God impending over his own head.

BOOK IV.
A. D. 1173.

About the time that the Flemings were besieging Neuchatel, the king of France had set down before Verneuil, which consisted of three burghs, each inclosed with strong walls, and with a ditch full of water, besides a castle, or tower, commanding the whole town. Louis made his chief attack on that called *the great burgh*, which was very full of people; and, though the garrison bravely resisted and repelled the assaults of his troops, yet at the end of a month, provisions growing very scanty, the burghers were permitted to conclude an agreement, that this part of the town should be yielded to that king on the ninth day of August, if they were not succoured before. The time granted was short, being no more than three days; during which they enjoyed the benefit of a truce, with permission to advertise King Henry, their master, of the extremity to which they were reduced. That prince, from an apprehension of dividing his forces, had remained, during the greatest part of the summer, in a state of inaction at Rouen, affecting to seem much at ease, hunting oftener than usual, and shewing to all who approached him a countenance serene and chearful,

Benedict.
Abbas.
Hoveden.

Diceto Imag.
Hist.

BOOK IV.

A. D. 1173.

Neubrigenfis.
Benedict.
Abbas,
Hoveden.
Brompton.

ful, as in a time of settled peace; by which artifice he kept up the spirits of his friends, who thought he saw, more than they, that he had nothing to fear. But, the earl of Boulogne being dead, and the earl of Flanders having therefore withdrawn his own forces, as well as those of Boulogne, out of the Norman dominions, Henry found himself strong enough to attack the French army before Verneuil. With this intent he left Rouen at the head of ten thousand of his mercenary forces, and of a body of Normans experienced in wars against the French by dwelling on the marches. The earls of Arundel and Essex, the earl of Vendome, Richard de Humet, Henry's constable in the dutchy of Normandy, and some other barons of that country, commanded under him. On the sixth day of August he arrived at Conches, a strong post, where he encamped for two days, that some troops he expected to join him there might come up, which they did on the seventh. Here he learned from the deputies sent out of Verneuil the convention they had made; and on this notice advanced, the following day, to Breteuil, where he drew up his army in order of battle, being now within two leagues of the enemy's camp. When the first intelligence was brought to Louis from Conches, of his arrival at that place, and of his purpose to attempt the relief of Verneuil, that monarch and his troops received the news with ridicule, not only (says a good contemporary author) from the arrogance and presumption natural to the French, but because in numbers and all the equipment

Neubrigenfis,
l. ii. c. 28.

equipment of an army they seemed superior. On his nearer approach, Louis sent a bishop and an abbot, to demand of him formally, in the name of their master, whether he came to give battle. He was met by these envoys, in his march from Breteuil, some furlongs before the body of his army, at the head of an advanced party, and compleatly armed at all points. When they had delivered their message he put on a stern look, and with a terrible voice bade them go and tell their king, he was hastening to fight him. The report they made struck a terror into the hearts of the French. Henry's soldiers, on the contrary, were very eager to fight, which alacrity was particularly inflamed in the Normans, by a military harangue, addrest to those of that nation by the earl of Arundel, the best orator among the nobles of those days, wherein he set forth the great examples of valour, given to them by their countrymen in former times, and the flagrant injustice and perfidy of the French, who excited and supported such an impious rebellion of sons against their father. This speech was received with martial acclamations, which spread from the Normans to all the other bands: but, while they were advancing to attack the enemy's camp, the earl of Dreux, the earl of Blois, and the archbishop of Sens, came to Henry, and informed him, that the king of France was desirous of a conference with him, in order to treat of a peace between him and his sons. Henry, abhorring

Benedict.
Abbas.
Hoveden.
Brompton.

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A.D. 1173.

V. Authores
citos ut
suprà.

horring this war, and wishing to end it as speedily as he could, consented to grant the French a truce for one day more; and it was agreed, that King Louis, and the young princes of England, should confer with him, the next day, at an hour and place then appointed. He would, perhaps, have done better, if he had taken immediate advantage of the ardour he saw in his troops. Such moments are decisive; victory seemed to invite him; nor could any other means so effectually crush the conspiracies formed against him, or deter his enemies, for the future, from forming more, as winning a battle against the king of France in person. But, instead of trying his fortune, he retired to his former post at Conches, from whence, the next day, he returned to the place assigned for the conference, encamping his army on some eminences not far off, as that of the French was so near. After having waited beyond the hour appointed, without seeing Louis, or receiving from him any message in excuse for his absence, he began to suspect some deceit, and often casting his eyes, with an anxious impatience, towards Verneuil, he saw, on a sudden, rising from the great burgh, a very black cloud of smoke, and presently afterwards flames of fire. The cause of this was an act of the most infamous perfidy done by the king of France: for that prince had availed himself of the suspension of arms, which Henry had so frankly and so generously granted at his request, to summon the burghesses, with whom he

he had made the above-mentioned convention, to surrender to him the burgh, as they had bound themselves to do if the siege was not raised before that day: and they, ignorant of the reasons which occasioned the delay of the expected relief, thought it necessary to comply with this demand. When he had thus fraudulently obtained admission within their walls, he set fire to the place, and retired that evening to his own territories, in the isle of France near adjacent, carrying off all the burghesses, with the hostages they had given him, and all their goods, though he had sworn not to hurt or suffer others to hurt them, but to return them their hostages on the actual surrender of the great burgh to him at the stipulated time; which solemn obligation was guaranteed by the oaths of his brother the earl of Dreux, of the earls of Champagne and of Blois, and of the archbishop of Sens. On what pretence this was done we are not told: but there must have been something, if not to justify, yet to palliate and excuse, both to themselves and the world, so flagrant a perjury.

When King Henry was informed, by the return of his scouts, or by messengers from the town, of these events, he led his army to Verneuil, and detached some light horse to harraß the French in their retreat, as some authors affirm, who likewise say that these troops put many to the sword, and took captive a greater number, though none of high rank: but

William

V. *Authores*
citatos ut
suprà.

William of Newbury denies that there was any pursuit; nor does he accuse the king of France of any breach of faith in this whole transaction. Whether his silence about the facts, on which that charge was founded, is sufficient to invalidate the positive testimony of three contemporary writers, viz. the abbot of Peterborough, Hoveden, and Brompton, the reader will judge: but thus much is certain; that the precipitate raising of the siege of Verneuil, and retiring out of Normandy upon Henry's approach, brought on Louis more disgrace, than he would have suffered by the loss of a battle; and if to this ignominy was added the perfidy imputed to him, one can hardly imagine a more shameful commencement of an evil undertaking. It seems that soon afterwards, his vassals having completed their forty days service, the whole army broke up; for he undertook nothing more during the course of this year.

Henry, after bestowing on his mercenary troops, whose love of plunder he well knew, all the booty left behind in the enemy's camp, which consisted of large stores of wine and victuals, and after giving due praise to the garrison of Verneuil, for the gallant defence they had made, returned from thence to Rouen, not thinking it proper to act offensively against his *liege lord*, the king of France, within his own domain, or for other reasons not explained by the writers of those times. On his way he took Damville, a castle belonging to one of his

his rebel barons, and in it many knights. From Rouen he sent his Brabanters (which name is given by all the historians of that age to his mercenary troops, because they came from Brabant) into a part of Bretagne, where the earl of Chester, in conjunction with the baron de Fougères, had taken Dol, a frontier town on the borders of Normandy, and some other fortified places, more by treachery than by force. On the twentieth of August these troops fought a battle with the rebels, whom, notwithstanding a great superiority of numbers, they entirely defeated. Fifteen hundred Bretons were killed, and many taken prisoners, in the fight and pursuit. Among the captives was Asculf de St. Hilaire. The earl of Chester and the baron de Fougères retired, with many nobles of their party, and the remainder of their forces, to the castle of Dol, which was presently invested by the victorious Brabanters, who sent notice to Henry of their having thus shut them up. That monarch, full of joy at this good news, immediately set out from Rouen, and by travelling all the night, without giving himself time to eat or sleep, arrived at Dol the next day. As soon as his engines were ready for battering the castle, which his presence greatly hastened, the besieged, who despaired of being able to defend it against the violence of them, and suffered extremely by being crowded together in too narrow a space (which circumstance would have soon destroyed them

BOOK IV.

A. D. 1173.

Neubrigensis,

l. ii. c. 29.

Benedict.

Abbas.

Hoveden,

Brompton.

BOOK IV. by famine) saw no other resource but the mercy
 A. D. 1173. of their sovereign, and surrendered the fort at discretion. Near a hundred nobles, the flower and strength of Bretagne, were thus delivered up into the hands of this prince: but the most important prize was Hugh earl of Chester, whose great power in England, united to that of the other English rebels, might have endangered the realm, if he had not been prevented from acting there, by being driven into this untenable castle, as into a net which his destiny had spread for him, and out of which he could not, by any efforts, escape.

Robert de
Monte.

The mercenaries, who had done the king this great service, were all enriched by a booty, which, before the battle, they had taken from the Baron de Fougères, whose baggage they had seized, with many horses and much cattle belonging to him and his vassals, in a forest near his castle. This, together with the spoils of the captive soldiers at Dol, contributed not a little to support their alacrity, and their zeal for the service into which they had entered. Their reputation was likewise so confirmed by a victory gained entirely by their valour, that the fear of them dismayed all the enemies of the prince for whom they fought.

Benedict.

Abbas.

Hoveden.

Neubrigenfis,

l. ii. c. 30.

During the course of these events in France, the flames of civil war, which had been first kindled there, began to break out in England. Robert de Bellomont, earl of Leicester, surnamed *le bossu*, that is, crookbacked, had, early in the spring, gone over to France with

a li-

licence from Henry, who had no suspicions of him, on pretence of attending to his private affairs in that country, but proposing to consult with Henry's enemies there what measures should be taken, on both sides of the water, to execute those designs against that king, of which he and Queen Eleanor are said to have been the first instigators. The imperfect knowledge we have of the secret intrigues which preceded this revolt, only permits us to form some uncertain conjectures on the particular motives which drew into it this earl, whose father had served Henry with great fidelity and affection, to the last hour of his life, in the highest office of state, as grand justiciary of England. Perhaps he may have wished to succeed to that office on the death of his father in the year eleven hundred and sixty-eight. But, besides that the precedent of its being so given might have tended to render it an hereditary dignity in the Bellomont family, such a grant would have been liable to another objection of no small weight. For this lord, by his marriage, was hereditary seneschall or high steward of the crown, and there could be nothing more repugnant to the rules of true policy, than to suffer two offices of such power in the state to be engrossed by one man. Yet his passions might consider the depriving him of a place which his father had enjoyed, as an ill return for the services done by that earl, and an offence to himself. But, whether resentment, or the hope of governing a young and unex-

BOOK IV.

A. D. 1173.

Diceto Imag.
Hist.
Benedict.
Abbas.

Diceto.
Benedict.
Abbas.
Hoveden.
Neubrigensis,
l. ii. c. 30.

perienched king, impelled him to this treason, or both these motives together, he acted in France as a chief incendiary of the war against his sovereign: on the discovery of which, by his joining the rebel princes at Paris, all his castles in Normandy were seized by Henry, and an order was sent into England to Richard de Lucy, and Reginald earl of Cornwall, that they should, without loss of time, take from him his chief strength, the town and castle of Leicester. Those to whom he had entrusted the custody of them refused to give them up and stood a siege, during which the greatest part of the town was destroyed by an accidental fire. Soon afterwards, on the twenty-eighth of July, the townsmen capitulated agreeing to surrender the remains of the town and pay to the king a fine of three hundred marks, on condition of being permitted to retire, with all their effects, into some of the royal demesnes, and reside therein till the troubles in the realm should be ended, with full liberty to return, or remain in their new settlement, after that term. A truce also was granted to the garrison in the castle till the feast of St. Michael; which concessions were owing to advices received by Richard de Lucy at this time, that the king of Scotland, at the head of a numerous army, had made a sudden irruption into Cumberland, and after horrible devastations of all the open country, was besieging Carlisle. To oppose this invasion, the justiciary marched northwards, with the main body

of the royal forces, having, before his departure, demolished the walls and fortifications of Leiceſter, ſo as to make it defenceleſs. The earl of Cornwall ſtayed behind, with a ſtrength ſufficient to awe the earl of Leiceſter's vaſſals, who had knights fees in that county; and Richard de Lucy was joined, in his march to Carlisle, by Humphrey de Bohun, lord high conſtable of England, at the head of other troops raiſed by him in the north. While they were haſtening to ſuccour their country men on the borders, the king of Scotland, who found, that his forces, unacquainted with the regular art of war, were continually repulſed in all their aſſaults by the garriſon of Carlisle, raiſed the ſiege, and obtaining from the biſhop of Durham, who ſecretly favoured the plot, a ſafe paſſage through his county into the northern parts of Yorkſhire, layed them waſte with moſt barbarous and merciless depredations; his army being chiefly composed of Galwegians, a fierce, uncivilized people, who were under no diſcipline, and whom no ſenſe of humanity or of piety could reſtrain from ſuch acts of ſavage cruelty in making war, that one cannot read without horror the accounts given of them by the writers of that age. All the enormities, which, in the reign of King Stephen, the armies of David, William's grandfather, conſiſting of irregulars from the ſame country, had committed in the inroads they made into England, were now renewed. William ought to have

V. Authores
citatō ut
ſuprà.

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learnt, from the experience of those times, that by employing these troops, whose rage and avarice, when let loose, he could not stop, he drew on himself a reproach, which the services they could do him would by no means compensate. So conscious was he indeed of their utter inability to contend with a regular and well-disciplined army, that, on the approach of the English, not daring to face them, he retired back to Scotland, but led captive a great multitude of the miserable people, whose country he had ruined. Henry's generals, in revenge of these inhuman hostilities, set fire to Berwick, and advancing from thence ravaged Lothian, for some time, without the least resistance.

Benedict.
Abbas.
Hoveden.

While these military operations were going on in Great Britain, the pope's legates in France, and another Italian prelate, the archbishop of Tarento, endeavoured to mediate a peace between Louis and Henry, after the defeat of the earl of Chester and the rebels in Bretagne. Their intercessions prevailed to bring the two monarchs to an interview on their borders, at which were present Henry's sons and many nobles of both realms. In this conference Henry offered to give his eldest son, who had complained that his revenues were not sufficient to support his royal dignity, half of those he drew himself from his own demesnes in England, and four castles in that kingdom fit for his son to inhabit; or, if he should chuse to reside in Normandy, half of the revenues of

Ibidem.

of that dutchy and the whole revenue of Anjou, with three castles in Normandy, to which Hoveden says he added one in Anjou, one in Touraine, and one in Maine. To Richard he offered half of the revenue of Aquitaine, with four castles in that country; and to Geoffry all the territories, which the daughter of Conan, the late duke of Bretagne, inherited from her father; if, with the consent of the pope, he could marry that lady, to whom he was betrothed. Concerning the last of these offers it must be observed, that in the year eleven hundred and sixty-seven John of Oxford had obtained a dispensation from Alexander for the marriage of Geoffry with Constantine of Bretagne, his third cousin, when both the parties should be of a proper age for that union, which they hardly were at this time: but it seems that some difficulties had been afterwards raised on this point, which had caused the pontiff to revoke or suspend the authority of the concession then made, till further information.

V. Epist. S.
Thom. 102.
l. ii. edit.
Brussels.
See also the
4th vol. of
this Hist.
P. 144.

Henry concluded his proposals with generously declaring, that he would entirely submit to the arbitration of the legates and the archbishop of Tarento, whether any addition, and how much, should be made to these grants, *only retaining to himself, in all the cessions he should make, the right of sovereignty and supreme administration of justice.* It must be understood that this *sovereignty* only meant a *superiority* over his sons in those fiefs, for which he himself was a vassal of the crown of France:

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the royal power which belonged to him in absolute independency, as king of England, not extending to those, and nothing being more remote from his purposes at this time than to deny or dispute the sovereignty of Louis over all the ancient members of the French kingdom. But his reserving to himself, in the territories of France which he ceded to his sons, a superior dominion over his sons, as sub-vassals, and the exercise of those powers which belonged to that dominion, would have defeated the main political purpose, which Louis had in fomenting the revolt of those princes, namely, the breaking of that greatness, arising from the multitude of accumulated fiefs, which rendered him, and might render every future king of England descended from him, a vassal of France much too mighty for the monarchy and state. Louis therefore, with the advice of his ministers and council, declared to him, the next morning, when their interview was renewed, his refusal of these offers, and easily brought the young princes, who had put themselves absolutely under his direction, to make the same answer. At this meeting, the earl of Leicester, who attended in their train, desiring to prevent the conclusion of a treaty to which he might be a victim, threw out many opprobrious words against Henry, and, in speaking to that prince, laid his hand on his sword. This occasioned a great tumult; the conference was broke off; and, while Henry, much offended, returned to Gisors,

Hoveden.

Benedict.

Abbas, p. 67,
68. t. i.

ors, some of his knights had a conflict with BOOK IV.
 those of Louis, in which Engelram de Trie, A. D. 1173.
 castellan of the Vexin, who about fourteen
 years before, in the war of Toulouse, had been
 taken by Becket, was again made a prisoner by
 Villiam de Mandeville earl of Essex, who
 delivered him to Henry at Gisors, as he de-
 sired to submit to the mercy of that king,
 whose vassal he was for his castle.

The earl of Leicester soon afterwards went Benedict.
 from France into Flanders, and passed from Abb. t. i.
 thence into England, at the head of a confi- p. 68.
 derable body of Flemings, which, it seems, Hoveden.
 the earl of Flanders put under his conduct, or Gervase,
 permitted him to raise by a commission from Chron.
 Louis and from the young king of England, Brompton,
 in pursuance of the measures concerted with Chron.
 those princes. He landed, on the seventeenth Diceto Imag.
 or eighteenth of October, near the castle of Hist.
 Walton, a fort belonging to Hugh Bigot,
 Earl of Norfolk and of Suffolk, at the mouth
 of the river Orwell in the county of Suffolk;
 from whence he proceeded to the castle of
 Framlingham in the same county, the capital
 seat of that earl, his accomplice in rebellion,
 who received him there, with his lady, the
 countess of Leicester, and with all his foreign
 troops; the wide enclosure of the walls con- Camden's
 taining thirteen towers and many other build- Britannia,
 ings. When they had thus joined their forces, SUFFOLK.
 the first attempt of those lords was to make
 themselves masters of the neighbouring town Neubrigenfis.
 of

BOOK IV.

A. D. 1173.

Benedict.

Abbas.

Hoveden.

Neubrigenfis,

l. ii. c. 30.

of Dunwich, which in those times was considerable and full of wealth; but, the inhabitants making a more courageous resistance than had been expected from them, the two earls raised the siege, and contented themselves with the more easy conquest of Hageneth castle, which held out but four days.

During these operations in the county of Suffolk, intelligence being sent to Richard de Lucy and Humphrey de Bohun in Lothian of the earl of Leicester's junction with Hugh Bigot, they kept the news very secret, and offered a truce to the Scots till the feast of St. Hilary, which the king of Scotland, who was ignorant of their motive for desiring it, very gladly accepted; and hostages, to secure the due observance of it, were delivered on both sides. The English army, thus enabled to retire out of Scotland, returned in part to the counties from which they had been levied, but a large body of them, led by Humphrey de Bohun, advanced with great expedition to the South-East, and arriving at St. Edmundsbury in Suffolk, about the end of October, was joined there by the earls of Cornwall, Arundel, and Gloucester.

Duceto.

Hugh Bigot, after Hageneth castle was taken, having no other enterprize to pursue in those parts, thought it inexpedient to keep such a number of foreign troops in his castle and feed them at his cost. Nor would his lady endure to be longer incommoded with such troublesome guests, who were the more irksome

to

to her as she did not well agree with the coun-
 tefs of Leicefter. He therefore entreated the
 earl to remove all his Flemings into his own
 lands and forts. But to do this was not eafy;
 the country between Leicefterfhire and the caftle
 of Framlingham being full of the king's forces;
 for which reason that lord endeavoured to put
 off his departure from this place till further
 fuccours arrived: neverthelefs, as he found
 his hoft weary of him, and was fenfible, that,
 if the place were befieged, fuch a multitude,
 there inclofed, could not long find fubfiftence,
 he marched out of it, with his army, a little
 before All Saints day, in the year eleven hun-
 dred and feventy-three. Nor did he leave his
 wife behind: for that lady had a bold and mafcu-
 line fpirit, and was neither afraid nor unwilling
 to encounter any dangers in company with her
 husband, who flattered himfelf with fome hope,
 that he might pafs unoppofed; as among the
 king's troops, which were pofted round about
 him, many nobles and leaders were his per-
 fonal friends. But he chiefly confided in the
 valour of his army, which confifted of a body
 of about fourfcore knights and other chofen
 horfemen, with an infantry heavy-armed, to
 the number of four or five thoufand, befides
 archers and light horfe attendant on the knights.
 Hugh de Chatel, a French nobleman of emi-
 nent dignity, and Walter de Wahull, a baron
 of Bedfordfhire, commanded thefe forces un-
 der the earl of Leicefter. Having received in-
 formation, that the enemy, with a cavalry
 much

BOOK IV.

A. D. 1173.

Diceto.
Neubrigenfis.
Benedict.
Abbas.
Hoveden.
Brompton.

M. Paris.

V. Authores
citos ut fu-
pra.

much superior to theirs, was at St. Edmondsbury, which lay directly in their road as they advanced towards Leicester, they tried to avoid the necessity of a battle by leaving that town on their left; but coming into a common, not far distant from Fernham, which had swampey grounds on each side, they found the king's army drawn up there in good order, with the banner of St. Edmond, taken from the abbey, and waving in their front. Seeing therefore no means of declining an engagement, they hastily formed their line, and prepared for it with a good appearance of courage. But, though their infantry much outnumbered the enemy, yet the cavalry of the latter being four to one of theirs, and fighting on a plain, they could not stand the first shock. Of the foot very few escaped alive; and most of the Flemish horsemen, with the two chiefs above-mentioned, and the earl of Leicester himself, were made prisoners of war. The countess, seeing all lost, and coming in her flight to a river, threw into it a ring, with a jewel of great value, which she had on her finger, to prevent its being taken (as she immediately was herself) by those who pursued her.

When the news of this event, most fortunate for Henry, was brought to that monarch, he commanded the prisoners of the greatest rank and distinction to be sent into Normandy, and soon afterwards led his Brabanters from thence into Anjou, where some sorts of the rebels

rebels were surrendered up to him, and in one of them many knights and gentlemen of that country. About the feast of St. Andrew he laid siege to Vendome, which appears to have been in those days a fief of Touraine, and was held against him for his son by Richard de Lavardin, who, having married a daughter of the earl of Vendome, had driven his father-in-law out of the town for refusing to join in this revolt. It concerned Henry's honour to reinstate that lord, as soon as possible, in his fief; which he performed before Christmas, and then returned into Normandy, where he stayed all the winter, having concluded with Louis a suspension of arms from the feast of St. Hilary to the end of the Easter holidays in the year eleven hundred and seventy-four. The truce made with the king of Scotland by Richard de Lucy was also prolonged to that term, in consideration of the sum of three hundred marks, which, through the mediation of the bishop of Durham, the gentry of Northumberland agreed to pay to that prince; a bribe so small, that the taking of it seems to demonstrate a great want of money in his coffers at this time. After the rout of the Flemings, Henry's forces, by which that victory was obtained, went into winter quarters; the late season not suffering them to undertake the siege of Framlingham castle.

But, though the fury of this war was thus restrained for some months in England and in France, designs were busily formed among the
con-

confederates to renew it in both countries with more extraordinary efforts, when the time of the year would permit. Their plan was, that the earl of Flanders, in conjunction with young Henry, and at the head of a powerful army of Flemings, should land in Kent or Suffex, while the Scots should attack the northern counties of England, and while Louis should turn his arms against Normandy, and other dominions belonging to the elder Henry in France, with the aid of the Dukes of Aquitaine and Bretagne, and their adherents in those parts. To put this in execution it was necessary to wait till the following summer, when it would be safer for so great an embarkation of troops to pass the sea; and there was some difficulty to bring the earl of Flanders himself to concur in the project; those sentiments which the death of his brother had excited not having yet wholly lost their influence on his mind: but the fealty he had sworn to the young king of England in doing him homage for Kent, together with his desire of obtaining that province, got the better of his scruples. He therefore took a new oath, in the presence of the king and nobles of France, engaged with him in the league, to be ready with an army and fleet for this purpose, within the term of fifteen days after Midsummer next ensuing. In the mean time, the young Henry, by his emissaries and letters, endeavoured to seduce the barons of England from their loyalty

to his father. Contemporary writers suppose, *Neubrigenfis*, l. ii. c. 31, 32. he

he succeeded so well in these attempts, that few of the nobles maintained their fidelity quite firm and unshaken. But allowance must be made for what, on such occasions, is usually added to truth by groundless suspicions, by the fears of the people, by the malice of party, and by the unwarranted rumours, or aggravated reports, of common fame.

At the end of the Easter holydays in the year eleven hundred and seventy-four, the truce which the king of Scotland had made with the English being expired, he poured into Northumberland a deluge of Barbarians, who wasted all the western parts of that county, where (if we may believe the testimony of writers who lived in those times) they carried the rage and madness of their cruelty to such a monstrous excess, that they even ripped up the bellies of women big with child, and tossed the babes, taken out of them, on the points of their spears. When the fury of these undisciplined soldiers, who having no pay but plunder could be under no restraint, had wearied itself there, William, their king, being strengthened by some regular bands of Flemish horse and foot, which he had hired for this service, went into Westmoreland, and advancing to Carlisle without opposition laid siege to that city; but finding it bravely defended he formed a blockade with part of his army, and with the other took the castles of Harbotle, Warkworth, and Lidel; which being done, he returned, and so closely shut up Carlisle, that, provisions beginning to fail,

BOOK IV.

A. D. 1174.

Benedict.

Abbas.

Hoveden.

Gervase.

Brompton.

Neubrigenfis,

l. ii. c. 32.

Benedict.

Abbas.

Hoveden.

BOOK IV. fail, the governor, Robert de Vaux, agreed to
 A. D. 1174. surrender the town and castle to him on the
 feast of St. Michael, if not succoured by Henry
 before that time.

Hostages having been given to secure the
 performance of this capitulation, the king drew
 off his troops, and invested the castle of Prud-
 how on the Tyne. While he lay before the
 place, which he feared to leave behind him and
 could not take, the Lord Roger de Mowbray,
 a principal rebel, whom Geoffry, bishop of
 Lincoln, had driven out of Yorkshire, came
 to beg his assistance.

Diceto Imag.
 Hist. ad. ann.
 1173.

Girald. Cam-
 brenf. de
 Vita Galf.
 Arch. in An-
 gliâ Sacra,
 par. ii. p.
 378, 379.

That prelate, a natural son of King Henry
 and of Rosamond Clifford, had, in the year
 eleven hundred and seventy-three, the twentieth
 of his age, been elected to that see, and enjoyed
 the profits of it by the pope's dispensation, but
 had not yet been consecrated by the archbishop
 nor even taken priest's orders. When the
 rebellion broke out, he used his endeavour
 (agreeably to a counsel which the chancellor
 of Ely officiously gave him), to assist his father
 by raising a sum of money in his diocese, as
 free contribution from the gentry and people
 but being apprised that this gift, which could
 not easily be refused, was deemed an exaction
 and did the king more harm than good, he
 returned the whole collection, though it was
 a very large one, back again to the donors.
 This made him very popular; and he presently
 found that on such occasions affection is more
 valuable than gold: for, the country about

Lincoln

Lincoln being ravaged by the garrison of Kinardsferry castle in the isle of Axholm, a strong fortress belonging to Roger de Mowbray, he chose to throw off his ecclesiastical character, and put himself, as a baron, at the head of his vassals: but, these forces alone not being able to make head against the rebels, a great number of volunteers, out of regard to his person, flocked to his banner from all the circumjacent parts, with whose aid he surprized the castle of Kinardsferry, and levelled it with the ground. Presently afterwards came to him Ranulph de Glanville, then sheriff of Yorkshire, and implored him, in the name of the archbishop of York, and of all the other faithful servants of the king in that county, to go and join his arms with theirs, in order to resist the hostilities of the Scots, who intended, when the castle of Prudhow should be taken, to march through the bishoprick of Durham into Yorkshire, and lay it waste in conjunction with Roger de Mowbray, by whose troops from his castles of Malepart and Thirsk it was already infested. Geoffry, who had just dismissed all his forces, and was very doubtful whether any of them, except his own knights, would follow him out of the county, sent away Glanville without a positive answer: but, finding in them an alacrity beyond his hopes, he soon raised a fine army, with which he marched into Yorkshire, joined the barons of that province, and while the Scots were detained from passing over the Tyne by

BOOK IV. the obstinate defence of the castle of Prudhow, took and demolished that of Malepart, which Roger de Mowbray had built within about twenty miles of York. This lord, who was then in his other fortress of Thirske, fled from thence to the Scots, with whose king he before had confederated himself against his own sovereign, and asked the aid of that prince, who apprehending that the army collected in Yorkshire might venture to fight him, and not chusing to stand the hazard of a battle till the Flemings should be landed, raised his siege, and retiring from the Tyne further northwards sat down before Alnwick in the county of Northumberland, intending only to check the excursions of the garrison with his regular troops, which amounted to about eight thousand men, while his irregulars wasted the eastern side of that province, as they had the western before. The bishop of Lincoln, informed of the retreat of the Scots, built a castle at Topcliff, the custody of which he committed to William de Stuteville, for the security of the borders, and leaving some of his knights, to strengthen the army of the Yorkshire barons, returned to his see with great glory.

Neubrigenfis,
l. ii. c. 33.
Girald. Cam-
brenfis, ut
suprà.

But in other parts of the kingdom the state of the king's affairs at this time was unprosperous and alarming. For, the governor of Leicester castle, named Aschetill de Mallore, after ravaging all the country in the neighbourhood of his fort, defeated a body of the citizens of Northampton, and some of the king's

Neubrigenfis.
Benedict.
Abbas, ad
ann. 1174.

king's horse, who had sallied out of that town to give them battle. The rebels were also much strengthened by Robert de Ferrars, earl of Derby and Nottingham, declaring himself on their side. He and his vassals, in conjunction with those of the earl of Leicester, who sought to revenge the captivity of their lord, surprised, sacked, and burned, the royal burgh of Nottingham, committed by Henry to the custody of Reginald de Lucy. Great danger was feared from the confederacy of this lord with David earl of Huntingdon, whom his brother, the king of Scotland, had sent to command the rebel forces at Leicester. Richard de Lucy hereupon, either by general powers entrusted to him as regent, or by special orders from Henry, declared to Simon de Senlis, earl of Northampton, who was legally prosecuting in the king's court a claim of inheritance to the earldom of Huntingdon, that, if he could by his sword recover that province out of the hands of the Scot, who had forfeited it by his reason, the king would confirm it, without further litigation, to him and his heirs. On this offer the earl immediately raised his vassals, and, joining them to the forces which Richard de Lucy had assembled, came with him before Huntingdon, on the twenty-third day of June. At the approach of this army, the garrison of the castle set fire to the town, and betook themselves to their fortress, which being strong, the justiciary did not think it expedient to harass the king's troops in endeavouring to

Brompton,
Benedict.
Abbas.
Hoveden.

BOOK IV.

A.D. 1174.

take it, but erected a fort, sufficient to restrain the excursions of the garrison, before the gate and committing the custody thereof to the earl went to visit other places, where his presence was necessary for services more important. As he had no men to spare, he solicited Rhee and Gryffyth, Henry's vassal in South Wales, to repay the great favours he had received from that king in the year eleven hundred and seventy-one, by assisting him in this crisis, and leading into Staffordshire an army of Welsh to besiege the earl of Derby's castle at Tutbury on the river Dove, which was the capital mansion of that powerful rebel, and the chief defence of his vast estate in those parts. The attack, he supposed, would draw the earl from those counties, where his acting in concert with David, earl of Huntingdon, especially the Scots should advance to assist them, was most to be apprehended. Rhee, whose heart the king had gained, gladly embraced this occasion of doing him a good service, and having raised a great force marched with it through Herefordshire to Tutbury castle.

In the mean time the justiciary's most anxious attention was continually employed in guarding the coasts exposed to the invasion which he knew was intended from Flanders and Boulogne. A body of Flemings (among whom were five hundred knights, chosen out of the whole army) having been received by Hugh Bigot, about the middle of June, into his several castles in Norfolk and Suffolk, could formably

Dicto Imag.
Hist.

formably to an order from the young king of England, had taken and pillaged the city of Norwich under the conduct of that disloyal earl. But this was only preparatory to the greater invasion proposed to be made before the end of the summer. Intelligence of the forwardness of that design arrived daily; and the alarm was so great, that Richard de Lucy and others, to whom the administration of government was entrusted in the absence of Henry, agreed to end over the archdeacon of Poitiers, who had lately been elected bishop of Winchester, to represent to that prince, whose confidence he had gained by an ardent zeal for his service, the necessity of his coming without delay into England, to take care of his kingdom in this imminent danger.

The active spirit of Henry had not been unemployed during the spring of this year. He had recovered the capital city of Saintonge out of the hands of some rebels who had taken possession of it in the name of Duke Richard, by coming upon them sooner than they had expected, or believed to be possible; and had visited his provinces on the river Loire, over which, when he left them, and over the earldom of Maine, he made Maurice de Craon, a brave and faithful servant, his deputy or vicerent, having also committed the government and defence of the duchy of Aquitaine to a regency of six nobles, the most worthy of that trust in the several provinces thereunto belonging. On the feast of St. John the Baptist, the

Diceto Imag.
Hist.

bishop of Winchester found him at the castle of Bonneville, on the frontier of Normandy, consulting anxiously with all the lords of the marches and all the governors of his towns and fortresses in that dutchy, how best to defend them against the French, who, he knew, were preparing their utmost force to attack them, under the conduct of their king. The whole assembly was full of that courage and alacrity, which Henry felt himself, and knew how to inspire, on occasions of this nature, into the hearts of his servants. But the bishop of Winchester, with great truth, as the exigence required, laid before him, in the name of his whole English council, the perilous state of his kingdom. He shewed him, that the counties of Norfolk and Suffolk being in the power of Hugh Bigot, and the midland provinces full of the earl of Derby's, the earl of Huntington's, and the earl of Leicester's adherents, if the Scots should break into the northern parts of England, and the young king, with so great an army of Flemings as the earl of Flanders had raised to support him in this enterprise, should land in the southern, their strength would become almost irresistible, even supposing that all who had not yet declared for them should continue loyal: but he added, that suspicions had been lately conceived of the earls of Gloucester and Clare, two noblemen the most potent in all the west of England; and if young Henry, whom his father himself had crowned king, and to whom all the barons of
that

that realm had done homage, should be there in person, supported by such great foreign armies, whilst his father was absent, and employed in defending other territories abroad, it was to be feared, many more of the nobility and gentry would go over to him, not so much from inclination, as on motives of safety.

The king, whose own prudence had made him see the expediency of his being in England before his son, had commanded a fleet to be ready at Barfleur for transporting him over, and had sent thither his most important prisoners, whom it would not have been prudent to leave behind, particularly the earl of Chester, and the earl and countess of Leicester, who had been confined many months in the castle of Falaife. But anxiety to secure his valuable territories on that side of the water had delayed his departure so long, that, if his son and the Flemings had not happily been detained by contrary winds in the port of Gravelines for some days, they would have landed before him, to the very great detriment of his affairs in this kingdom, which ought to have been his first care. The information now given by the bishop of Winchester so convinced him of the danger of losing more time on any account whatsoever, that he hastened immediately to embark at Barfleur, taking with him the two queens, his own consort and his son's, as he reasonably supposed that the custody of them would be safer in England, during his

BOOK IV. abode in that isle, than it could be in France.
 A. D. 1174. On the eighth of July, very early in the
 Diceto Imag. morning, the wind being fair, he set sail: but,
 Hist. col. 576. the gale encreasing, and the sea beginning to
 Mat. Paris. grow rough, he observed in the countenances
 of the mariners some doubt of the safety of
 the voyage, whereupon, lifting up his eyes to
 heaven, he said, " If the Supreme Ruler de-
 " signs, by my arrival in England, to restore
 " to my people that peace, which he knows I
 " sincerely have at heart, may he mercifully
 " bring me to a safe port: but, if his will has
 " decreed to scourge the realm, may I never
 " be permitted to reach its shore!" These
 sentiments, so becoming a Christian and a king,
 and which his subsequent actions proved to
 have been real, were not unrewarded: for,
 that evening he arrived, without the loss of a
 ship, in the harbour of Southampton; his son
 and the earl of Flanders lying at Gravelines
 windbound, or deterred from sailing, if they
 had the same wind as he, by the violence of
 it, and the roughness of the sea in that part of
 the channel.

Neubrigenfis,
 l. ii. c. 32.

Diceto.
 Brompton
 M. Paris.

William of Newbury says, that there came
 with Henry into England only one troop, or
 squadron, of his mercenary soldiers: but others
 speak of their numbers as very considerable;
 and all mention some cavalry which he like-
 wise brought over; but of what nation or how
 many these were, we are not told. Probably
 most of them were the English lords and knights
 who had served him in France. But, instead

of leading them, immediately after his landing, to join his royal army under Richard de Lucy, in order to act, with his usual alacrity, against the rebels, he went on a pilgrimage to the tomb of the late Archbishop Becket, with the same of whose miracles the whole realm was now filled, and whom the pope by a bull, dated in March the year before, had declared a saint and a martyr, appointing an anniversary festival to be kept on the day of his death, *in order* (says the bull) *that being continually applied to by the prayers of the faithful, he should intercede with God for the clergy and people of England.* Henry therefore, desiring to obtain for himself this intercession, or to make others believe that the wrath of an enemy, to whom it was supposed that such power was given, might be thus averted from him, thought it necessary to visit the shrine of this new-created saint, and as soon as he came within sight of the tower of Canterbury cathedral, at the distance of three miles, descended from his horse, and walked thither barefoot, over a road that was full of rough and sharp stones, which so wounded his feet, that in many places they were stained with his blood. When he got to the tomb, which was then in the crypt of the church, he threw himself prostrate before it, and remained for some time in fervent prayer; during which, by his orders, the bishop of London in his name declared to the people, “that he had neither commanded, nor advised, nor by any artifice contrived, the death of Becket; for the truth of which he appealed, in the
“ most

V. Epist. S.
Thom. l. v.
epist. 93.
è Cod. Vaticano.

Diceto, col.
569—577.
Hoveden, ad
ann. 1174.

Gervase.
Hoveden.
Brompton.
Diceto,

BOOK IV. “ most solemn manner, to the testimony of
 A.D. 1174. “ God ; but, as the murderers of that prelate
 “ had taken occasion from his words, too in-
 “ considerately spoken, to commit this offence,
 “ he voluntarily thus submitted himself to the
 “ discipline of the church.” After this he
 was scourged, at his own request and com-
 mand, by all the monks of the convent assem-
 bled for that purpose, from every one of whom,
 and from several bishops and abbots there pre-
 sent, he received three or four stripes. This
 Gervase. sharp penance being done, he returned to his
 prayers before the tomb, which he continued
 all that day, and all the next night, not even
 suffering a carpet to be spread beneath him,
 but kneeling on the hard pavement. Early
 in the morning he went round all the altars
 of the church, and paid his devotions to the
 bodies of the saints there interred ; which
 having performed, he came back to Becket’s
 tomb, where he stayed till the hour when mass
 was said in the church, at which he assisted.

During all this time he had taken no kind
 of food ; and, except when he gave his naked
 body to be whipt, was clad in sackcloth. Be-
 fore his departure (that he might fully com-
 plete the expiation of his sin according to the
 notions of the church of Rome) he assigned a
 revenue of forty pounds a year, to keep lights
 always burning in honour of Becket about his
 tomb. The next evening he reached London,
 where he found it necessary to be blooded, and
 rest some days.

Thus

Thus was concluded this very extraordinary scene, which requires some reflections. If the report of Becket's miracles, or the authority of Rome in his canonisation, did really work such a change in Henry's mind, as to make him now deem that prelate, with whose whole conduct he had been so well acquainted, a saint and a martyr, it is a most wonderful instance of the prevalence of bigotry over human reason. But, if he continued to think of the man and the cause as he had hitherto thought, this pilgrimage to his tomb, these prostrations before it, these acts of worship paid to him, were an impious hypocrisy and mockery of God, which no policy could excuse. And that he did so, may not unreasonably be inferred from his subsequent conduct in many particulars, but more especially from some words which Giraldus Cambrensis affirms to have been spoken by him after this time. He tells us, that William earl of Arundel and of Suffex (whose father of the same name had died in the year eleven hundred and seventy-six) having been excommunicated by the bishop of Norwich on a dispute about some lands, complained to the king of that sentence, who said thereupon, in the hearing of many, "*I advise you, bishops, to behave yourselves with more moderation towards the barons of my realm, and not to excommunicate them so precipitately: because, if one of you has had the good fortune to succeed in such presumption, all will not: nor will every one who may be killed*"

V. G. Cambr.
in Angliâ Sacra, t. ii.
p. 430.
See Dugdale's
Baronage,
ARUNDEL.

BOOK IV. "*killed for such rash attempts, immediately ob-*
 A. D. 1174. "*tain the reputation of a martyr on that ac-*
count." Supposing him therefore to have been insincere in his veneration of Becket, it must be considered how far this act was consistent with the rules of true policy; and it seems to me very questionable, even in that light: for, certainly, by exalting the character of that prelate he sunk his own. He took care indeed, by the solemn declaration which the bishop of London made in his name to the people, that they should not look upon him as the wilfull murderer of a man whose sanctity he acknowledged; but this vindication went no further than to clear him of that guilt; it did not extend to any of his other proceedings with Becket; and by encouraging the opinion of the archbishop's having been a saint and a martyr, he threw the most odious colours of impiety and of tyranny on all those proceedings, in which the honour of his parliament, as well as his own, was concerned. It implied a condemnation of the constitutions of Clarendon, which he had never yet given up. Nor does it appear that he was under any real necessity of making such a sacrifice to the bigotry of the people. For there is not the least intimation in any history of those times, or letter then written, that those who had rebelled against him in England alledged a zeal for the cause which Becket had supported, or his sufferings in that cause, to justify their revolt. All the temporal lords had been eager
 for

for confirming and maintaining those laws which he had opposed and had encouraged the king to bring him to a trial, when the oath taken by him at Clarendon to observe them had been openly broken. The whole prelacy had concurred in some of the sentences past against him at Northampton, and (what is very remarkable) Henry had lately promoted to episcopal sees, without opposition from the rest of the clergy, those who most eminently had distinguished themselves by faithful services done to him and his realm during his contest with Becket. Among these were John of Oxford and Geoffry Ridel, whom that prelate, who considered them as his capital enemies, had therefore excommunicated at different times, and one of them (Ridel) in the last year of his life; which sentence he could not be persuaded to take off, after his peace with the king. By these promotions Henry's interest in the church was much strengthened; nor was any prelate, at this time, suspected of disloyalty, except the bishop of Durham. On the contrary, the affection of the bishops for that prince was a main support of his throne. The monks indeed were fond of the memory of Becket: but the pope's absolution, which Henry had received before these troubles began, sufficiently put him out of the reach of their malice. It does not then seem, that any urgent reason of political prudence could induce him, in these circumstances, to act this part. Perhaps a sense of remorse for the occasion

BOOK IV.

A. D. 1174.

V. Malmf-
bury, l. iii.
f. 55.Benedict.
Abbas, ad
ann. 1173.

sion he had given to the murder of Becket may have been aggravated, and more forcibly impress'd on his mind, by the affliction he felt from the unnatural treason of his wife and sons, which he might consider as a punishment of that offence, and hope to remove it by inflicting on himself these voluntary pains, for which he had a precedent in his own family; Fulk the Third, earl of Anjou, having caused himself to be whipt through the streets of Jerusalem, and at the holy sepulchre there, as a penance for his sins. But this was the first instance of any *king* who had yielded to so ignominious a method of expiation, which debas'd the royal majesty in the eye of the publick; and Henry's suffering it before the tomb of Becket, with such marks of devotion to that pretended saint, was liable to constructions injurious to his honour and the rights of his kingdom. A much sifter atonement for the fault he bewailed had been made the year before, by advancing Becket's sister to the honourable dignity of abbess of Berking, a monastery of royal foundation. Such a kindness to his family was a worthy fruit of repentance: but this was either an act of the most odious hypocrisy, or most contemptible superstition, which, if it had not some excuse in the genius of that religion which then was established, and the fashion of the times, would deserve the highest blame, instead of those encomiums with which it has been recorded in some of the books of that age.

Henry

Henry had hardly recovered from the fever brought upon him by the rigour of his penance, when his sleep was disturbed, in the middle of the night, by the importunity of a page, who insisted upon being admitted to his presence at that unseasonable hour. Being therefore introduced, by the gentlemen of his bedchamber, to his bedside, he told him, he was sent from Ranulph de Glanville to bring him good tidings. The king enquired kindly about the health of his master. He is well (answered the page); and holds your enemy, the King of Scotland, a captive in bonds, at the castle of Richmond in Yorkshire. Henry, astonished, commanded him to repeat what he had said. He did so; after which the king demanded of him, whether he had brought him any letter? Whereupon he produced one, which contained the particulars of this great event. When the king had read it, he instantly leaped out of his bed, and shedding tears of joy and gratitude, with eyes and hands raised to heaven, gave thanks to God. Then he sent for all his friends who were near enough to be called, that he might make them partakers of the pleasure he felt from this very unexpected and most happy news. The particulars of it were these. The king of Scotland, blocking up the castle of Alnwick with his regular forces, sent all his irregulars to ravage the country. These devastations for some time were totally unresisted, because the English in those parts had no army that was able to keep the field; and the king of Scotland,

Ibidem,
l. ii. c. 32,
33.

BOOK IV.

A. D. 1174.

Benedict.
Abbas.Neubrigensis,
l. ii, c. 33.

who believed, that no reinforcements could soon be brought to their aid without his having notice of it, became so secure, that he suffered great detachments, even of his regular troops, to go and plunder the people round about Alnwick castle. One of these, under the conduct of Duncan earl of Fife, entered into the adjacent town of Warkworth, which they burned to the ground and massacred all the inhabitants, men, women, and children not sparing even those who had taken sanctuary in the church. This raised to the highest pitch the resentment and hatred, which exasperated the people of all the northern counties against the Scottish nation and William the Lion, their king, who seemed rather to encourage than restrain these excesses of barbarous cruelty, even in his disciplined troops. The Yorkshire barons who, after the retreat of that monarch from the banks of the Tyne, had returned to their castles, upon hearing now that his forces were renewing their ravages of the Northumbrian lands, reassembled themselves under Ranulph de Glanville, the sheriff of their county, and forming a body of horse, in which were about four hundred knights, came into Newcastle on the eleventh of July, after a long and hard march. There they learned in what manner the enemy's forces were separated and scattered which intelligence giving them a reasonable hope of finding the king weakly guarded, they determined to set out very early the next morning, and endeavour to surprize that part of his army which lay before Alnwick castle. The

principals

principal barons who joined in this spirited resolution with Ranulph de Glanville were Robert de Stutevill, Barnard de Baliol, and William de Vesci. They began their march at break of day, and though loaded with heavy armour made such expedition, that in less than five hours they had travelled four and twenty computed miles from Newcastle. As they went there arose so thick a fog, that they could hardly see their way. Whereupon some advised to return back to Newcastle: but, Bernard de Baliol declaring, that, rather than stain his character with the infamy of such a retreat, he would go forwards alone, they all resolved to proceed. While they were advancing in darkness, the mist, which had covered and concealed their march, dispersing itself all at once, they saw before them in near view the castle of Alnwick, and soon afterwards the Scotch king, amidst a troop of between sixty and seventy horsemen, apprehending no danger, and diverting himself with the exercises of chivalry in an open plain. He took them, at first sight, for the detachment commanded by Duncan earl of Fife returning from Warkworth; but, on their nearer approach, discovering by their banners that they were English, he was amazed, yet not daunted. For he supposed that some bands of the multitude of his forces, which were scouring the whole country on every side, would quickly come to his aid. In this confidence, or, perhaps, from the mere impulse of a rash, unthinking

Vol. V. O courage,

Benedict,
Abbas.

Neubrigensis,
l. ii. c. 33.

courage, fiercely shaking his spear, and saying to his men, that *now it would be seen who was a good knight*, he led them immediately to attack the enemy, and charged foremost himself: but, his horse being killed under him in the first shock, he was taken prisoner, and with him most of his troop. Some nobles, who were not engaged in the action, but were within a small distance, hearing what had happened, came up, with all the haste they could make, and threw themselves into the hands of the English, that they might be partakers in the calamity of their sovereign. The victorious party returned, with the captives they had taken and without encountring any other detachmen of the enemy, that evening, to Newcastle; from which town; the next day, they removed the king of Scotland to the castle of Richmond. Among the other prisoners was Richard Cumin the chancellor of that unfortunate prince. All the rest of his vast army, Scots, Galwegians and Flemings, scattered over the country, retired precipitately into Scotland or Galloway on the first account they received of his misfortune.

Thus did Providence, in a most extraordinary manner, deliver up to King Henry, when he expected it least, this destroyer of his people, and principal abetter of the wicked rebellion against him in his family and his realm: an event which confounded all the hopes of his enemies, and broke at once all their measures!

Orders had been given, while the king was performing his pilgrimage to Becket's tomb, or the assembling of his army in the neighbourhood of London; and by the eighteenth of July, on which day he had the news of the king of Scotland's captivity, it was ready to set. He therefore would not lose time in idle and useless rejoicings, but put himself at their head, and advanced the same day towards Huntingdon castle, not doubting that the Scots, who were in garrison there, would presently yield it to him, when they should know he was master of their sovereign's person. It was accordingly surrendered on the twenty-first of July; though he granted them no conditions, except that they should not be able to suffer in their lives or limbs. While he lay before this place, there came to him his son Geoffry, bishop of Lincoln, of whose exploits in his service an account has been given, and brought under his own banner a hundred and forty knights, with many more men at arms, well mounted and accoutred. Henry received him with great joy, and said, in the hearing of a great multitude of persons, who were present at their meeting, *that his other sons by their conduct had proved themselves cowards, but this alone had shewn himself to be really his true and legitimate son.*

David earl of Huntingdon, on advice of his brother's captivity, which came to him soon after that event, left the castle of Leicester,

BOOK IV.
A. D. 1174.

Benedict.
Abbas.

Girald. Cambrenf. par. ii.
c. 3. in angliâ Sacra,
p. 380.

Chron. Marl.
ad ann. 1174.
Neubrigenfis,
l. ii. c. 36.

BOOK IV. the garrison of which had received him as commander in chief of all the rebels in those parts and retired into Scotland. Henry therefore did not stay in the midland counties of England to recover that castle, but marched from Huntingdon, with the utmost expedition, into Suffolk, against his more dangerous enemy Hugh Bigot, whose excursions he before had endeavoured to restrain, by detaching the Brabanders to observe his motions.

Diceto Imag.

Hilt.

Benedict.

Abbas.

Hoveden.

Gervase.

Brompton.

Neubrigenfis.

The castles of Framlingham and Bungey were crowded with Flemings, whom the earl had received, besides the usual garrisons, into those forts, intending to act offensively with them in other parts of the kingdom; but the unexpected disaster of the king of Scotland, which by this time he knew, the consternation caused among all his confederates, the quick surrender of Huntingdon castle to Henry, and the sudden approach of that monarch, at the head of a great army, disconcerted all the schemes he had hitherto formed, and almost took from him the means of maintaining any longer the cause he had engaged in, without drawing certain ruin upon his own head. For though his castles were strong, particularly Framlingham, yet the finding subsistence for such extraordinary numbers as were inclosed therein, if they should be closely blocked up, was a difficulty he knew could not be surmounted. He might also before now have received information, that, on the news of Henry's safe arrival in England, the young king

and the earl of Flanders had laid aside their intention of invading England, and had led all their forces to join the king of France in besieging Rouen; so that he could not expect that assistance from them, on which he had chiefly depended. In these circumstances he wished to make his peace with Henry, who had encamped not far distant from Framlingham castle, proposing to invest it the next day, and who, it may be presumed, upon application made for it, had granted him a safe conduct, in order to a personal treaty, and perhaps, some assurances of a favourable reception. Certain it is that he went to this prince in his camp, and obtained from him a pardon, by delivering up his two castles, giving hostages to him for his future fidelity, and paying a fine of a thousand marks of silver. The only circumstance much contested between them was concerning the Flemings in those parts; the earl insisting on their being permitted to return into Flanders with entire safety and freedom, which the king was unwilling to grant; but (not to neglect greater points in disputing long about this) Henry was satisfied with their oaths, that they would not serve against him during the rest of this war. Among these were some troops, which, a little before he came over, had been sent into England by his son, the young king, under Ranulph de la Haie, an officer of distinction in the service of that prince.

The rebellion being thus suppressed in Suffolk, Henry went to his own royal castle at Northampton, where the captive king of Scotland was brought to him from Yorkshire, with his feet tied, like a felon's, under the belly of his horse. It is not said that this great and indecent violation of the royal dignity in his person was ordered by Henry; but his having, without any declaration of war, or any act of hostility committed by the English, invaded their borders, and let loose the utmost fury of rapine and murder upon the innocent people, made them consider and treat him, not as a captive king, but as a robber and murderer apprehended by justice. How Henry received him the historians of those times have given us no account: we only know that he caused him to be closely confined, which necessity of state abundantly justified; and we may presume he did not use him ill in his prison, because it does not appear that after his enlargement he made any complaints, nor do the writers of that age who were most desirous to blame the conduct of Henry take notice of this among his faults.

Hoveden.
Benedict.
Abbas.
Gervase.
Brompton.
c. c. c.

The earl of Leicester being likewise a prisoner to the king, and entirely at his mercy, the governors of his castles, not seeing the least probability of setting him free by force of arms, and apprehending that their obstinacy in defending those places might be dangerous to his person, came to Northampton on the thirty-first of July, and surrendered to Henry his

his three castles of Leicester, Montfrel, and Groby. The same day arrived messengers from Roger de Mowbray, who after the action near Alnwick had fled into Scotland, with full powers to yield up his castle of Thirske; and others from Robert de Ferrars, earl of Derby, imploring peace from the king on his surrendering the two castles of Tutbury and Duffield, which the Welsh, under the conduct of Prince Rhees ap Gryffith, had besieged for some time, but could not take. The bishop of Durham came himself to Henry at Northampton, and gave up to him the forts of Durham, Norham, and Alverton, obtaining permission, though not without difficulty, to send away his nephew the earl of Bar, and a troop of forty French knights, whom he had lately received into Alverton castle, having before, upon hearing that the king of Scotland was taken, dismissed five hundred Flemings, whom the same lord had brought over. It did not appear very clearly that this prelate had designed to act for the rebels; because he pleaded that foreign and mercenary soldiers were necessary to guard his several castles, and the country round about them, against the Scots, whose numerous forces the ordinary garrisons would not have been able to resist, if the unexpected succour, conducted out of Yorkshire by Ranulph de Glanville, had not happily put an end to their depredations. As, therefore, his intentions could be only suspected, he ventured to wait on the king, whose

O 4 displeasure

BOOK IV. displeasure or jealousy he had no doubt of removing by making him master of these important fortresses, which were very sufficient sureties for his future fidelity. Some authors say, that the earl of Derby and Roger de Mowbray came likewise to the king. However this may have been, he pardoned them both, and having, no less by his mercy, than by the success which the Providence of God had given to his arms, composed the disturbances in all parts of his kingdom, he was able to give such attention to the safety of his foreign dominions, as the present conjuncture required. He therefore hastened to Portsmouth, where a navy was prepared to carry him over to Barfleur. On his journey he was met by the earls of Gloucester and Clare, whose loyalty had been suspected, and whose excuses he received, as more desirous to believe that they had not offended, than to punish their offences. But he did not think it proper to accept the surrender of the earl of Leicester's castles as a ransom for his person: nor would he leave either him or the earl of Chester in England, but ordered those two lords, the most distinguished promoters of the rebellion against him, and their principal confederate, the king of Scotland, to be carried into Normandy, in strict custody, with him. Eleanor and the young queen were left behind; England being for them a safer place of confinement,

Benedict.
Abbas.
Hoveden,

Ibidem.
Gervase.
Brompton.
Diceto.

On the seventh of August the king embarked at Portsmouth, and took with him his Brabanters and a thousand Welsh. These last had been sent to him by David ap Owen, prince or king of North Wales. William of Newbury says, he went over to Normandy with a great army, which would make one suppose that to these some English were added. On his landing at Barfleur he found there a great English prelate, whom he did not expect at this time.

BOOK IV.

A. D. 1174.
Welsh Chron.
by Dr. Powell,
and History
of Wales by
Wynne.
Benedict.
Abbas,
l. ii. c. 36.
Gervase, ad
ann. 1174.

After long delays from the obstinacy of the prior and monks of Christchurch convent in Canterbury concerning the election of a successor to Becket, they had, in February of the year eleven hundred and seventy-three, nominated in their own chapter, without other assistants, three persons, and sent their names to the grand justiciary, Richard de Lucy, desiring him to give the royal assent to the election of any one of these, whom the king should most approve. Richard summoned hereupon the bishops of the province, who joined with the monks in electing the abbot of Beck in Normandy, a man who was very agreeable to the king; and the royal assent was given to that choice: but it proved ineffectual; for the abbot pertinaciously refused to accept the primacy offered to him, and Henry was therefore constrained, much against his own wishes, to order a new election. The convent of Canterbury hereupon resumed their desire of confining to themselves the choice of a primate

Gervase, col.
1428, ad
ann. 1173.

mate and choosing him from their own body. A warm contest arising on these points between them and the bishops of the province, and all terms of accommodation proposed by the latter being obstinately rejected, Richard, prior of Dover, who had been a monk in that convent, and another of the same body, were sent into Normandy to negotiate with Henry, and know his will on this business. That prince did not give them any positive answer; but ordered them back into England, and sent private instructions to the regents of that kingdom, that, if the convent of Canterbury should continue inflexible in their resolution, they should so manage matters as to turn the election upon the prior of Dover. This intrigue was conducted with great address by the regents, and on the third day of June in the year eleven hundred and seventy-three the prior was elected: but before his consecration a letter was sent to the monks from the young king of England, then in France, by which he signified to them, “ that he had been informed, his father was attempting to place improper persons in the see of Canterbury and in others: wherefore, *because such elections ought not to be made without consent from him, who, by virtue of the royal unction which he had received, had taken upon himself the rule and care of the whole kingdom,* he had appealed against them to the see of Rome, and had notified that appeal to the cardinals Albert and Theodine, who had approved

“approved thereof.” In this letter he evidently arrogated to himself an equality with his father in the government of the realm, if not an entire sovereignty over it, as the words there used may import. The subjects therefore of that king could pay no regard to it, without violating the allegiance they owed to him, in whom the regal power was understood to remain supreme and undiminished, notwithstanding the ceremony of his son’s coronation. But the appeal made to Rome, of which notice had been given to the bishops of London, of Exeter, and of Worcester, as well as to these monks, induced them and the other suffragans of the province of Canterbury to defer the consecration of the archbishop elect, till the pope’s decision should be known: and that prelate was obliged to go and solicit this affair at Rome; nor could Henry forbid it in his present situation, though the question was purely of a political nature, and such as ought not to have been ever submitted to the papal authority. After some dispute the election was confirmed by Alexander, who, when he found that the quarrel betwixt the two Henries could not, by any power of his mediation, be amicably composed, took part with the father (as it became him to do) against the son, and not only consecrated the archbishop of Canterbury with his own hands, but also graced him with the additional dignity of his legate in England. Henry now met him on the coast of Normandy returning to that realm, and dined with him

Gervase, col.
1426, 1427.
Hoveden, ad
ann, 1174.

BOOK IV.

A. D. 1174.

him at his inn, from whence, in the afternoon, he dismissed him to prosecute his intended voyage, while he himself went to Caen. In the castle of that city he left his royal captive, and the two rebel earls whom he had brought over with him, under strict confinement, and marched from thence, through a country he was entirely master of, to Rouen, which had been besieged by the French from the twenty-first day of July and afterwards by them and the Flemish army combined.

Neubrigenfis.
Diceto.

To the north-eastern side of this metropolis of Normandy a passage had been opened, the year before, by the Flemings, who then had taken Aumale, Neuchâtel, and Driencourt, fortresses situated on the Norman confines towards Picardy and the Somme. The road from this frontier, especially near to Rouen, was narrow and difficult, being skirted with hills and thick woods. Yet it was the only one which an enemy could take to approach it; because the whole country to the South of the Seine, which was open and level, and all the passes of the hills on other sides of the city, except on that before-mentioned, were in Henry's possession. The bridge over the Seine, which the Empress Matilda had built, afforded a communication for the importation of victuals, or other supplies of all kinds; and the city, which covered a great extent of ground, was defended on that side by the depth and breadth of the river, and in all parts by deep ditches, and very thick walls flanked with towers.

towers. Almost all the Norman barons, and military tenants who held immediately of the king, had thrown themselves into it, upon the first motions of the French to attack it, with a firm resolution to maintain it against them to the utmost extremity: nor did the citizens, who were numerous and well trained to arms, shew themselves less courageous than the nobles and soldiers, or less determined to support their sovereign's cause. After the junction of the Flemish troops with the French, which made them a greater army than Europe had seen since the time of the last crusade, they proposed to take the town, which they could only attack on one quarter, by wearying out the besieged with continual toil: To this intent they divided the multitude of their forces into three partitions, which relieved each other by turns once in every eight hours; so that the attacks were incessant, and the battering engines employed with unremitting violence all day and all night. Nevertheless the besieged, procuring to themselves the same intervals of repose, by a similar division of their forces (which their having only one part of the city to defend enabled them to make), resisted and frustrated all attempts of the enemy, from the twenty-first of July, when the French sat down before Rouen, till the feast of St. Lawrence on the tenth of August, before which day the captivity of the king of Scotland being known in the French and Flemish camps, it struck a damp to the hearts of the confederate

BOOK IV.

A. D. 1174.

Neubrigensis,

l. ii. c. 25.

Diceto.

confederate army. The king of France, who professed a particular veneration for the holy martyr Lawrence, proclaimed, on the eve of his feast, a suspension of arms, as was usually done in that age. The citizens also observed it with an equal regard to religion, but with a more riotous and more triumphant joy: the youths and virgins sung and danced, and the men at arms issuing forth from the southern gate of the city diverted themselves with tilting upon the banks of the Seine, not only in honour of the saint, but as an insult on the enemy, who beheld them from their post on the other side of the river. While these sports were going on, towards the close of the day, it happened that some priests went up into the tower or steeple of a church, where the alarm-bell was hung; and one of them looking out of the window of the tower, which commanded a full prospect into the enemy's camp, was amazed at the extraordinary quiet and silence which he observed therein; and this raising some suspicion of a secret design against the town, he carefully watched all their motions, till he perceived that preparations were evidently making for an assault. He then called his companions, who immediately rung the bell; at the sound of which all the citizens, hastily snatching their arms, ran together to the walls; and the horsemen returning, with the utmost speed of their horses, into the town, resumed their posts. Some moments more of delay would probably have occasioned

occasioned the loss of the city: for the enemy's BOOK IV.
 troops, drawn together by private orders from A. D. 1174.
 their chiefs, without sound of trumpet, or any
 other loud signal, had already past the ditch,
 and the foremost rank of them, unopposed,
 had by scaling ladders mounted to the top of
 the wall; but in that very instant the brave
 citizens met them, and fighting hand to hand,
 killed, or threw down headlong into the ditch,
 those who had first gained the rampart: yet
 more continually mounting, a bloody conflict
 ensued; till night forced the assailants, whose
 loss of men was far greater than that of the
 besieged, to retire to their camp. Louis cast Neubrigensis,
 all the blame of this perfidious proceeding on l. ii. c. 35.
 the earl of Flanders; but whether he acted
 against his own inclinations by the advice of
 that prince (as some historians suppose), or whe-
 ther, doubting of success by any other means,
 he had recourse to this fraud, his reputation
 suffered much, and the more, as his consci-
 ence had been thought to be stricter in mat-
 ters of religion than in points of honour. The
 next day Henry came up, and passing the
 Seine by the bridge at the head of his army,
 made his entry into Rouen in great military
 pomp, amidst the joyful acclamations of the
 people of that city, and triumphant shouts of
 the soldiers, by whose valour it had been so
 well defended. His sudden arrival, before any Neubrigensis,
 intelligence of his landing in Normandy had ut supra.
 been brought to the enemy, whom the ill suc- Brompton,
 cess of their late unjustifiable attempt had not col. 1097.

BOOK IV. a little dejected, astonished and threw them
 A. D. 1174. into such a despondency, that they seemed to
 have lost all their courage. He, on the con-
 trary, full of confidence in the bravery of his
 troops, commanded the gate next to the ene-
 my's camp, which the citizens had walled up,
 to be opened, and so much of the ditch on that
 side to be filled up and levelled, as that his ca-
 valry might pass over it two hundred in front.
 While this was doing, his Welsh foot, whom
 he had sent out, a little before day-break, into
 a forest, with orders to wait, under cover of
 the woods, for a convoy of forty waggons,
 loaded with wine and with victuals, which he
 knew was expected that morning from France,
 by the road of Neuchâtel, performed their bu-
 siness so well, that bursting suddenly from their
 ambush on the skirt of the forest they destroy-
 ed the whole convoy, after having put to flight
 a body of cavalry, by which it was escorted.
 The confederates were two days in great want
 of provisions, before the end of which time the
 king of France and the earl of Flanders de-
 termined with all speed to raise the siege, not
 only on account of the present distress, but
 from a report which prevailed that the Welsh
 so infested all the woods near the city, as to
 hinder any supplies being brought to it with
 safety. On the thirteenth of August they or-
 dered the whole train of their battering en-
 gines, which had cost them vast sums, to be
 broken to pieces or burnt, that they might be
 no impediment to their retreat: during which

Henry

Benedict.
 Abbas.
 Hoveden.

Brompton,
 ut suprâ.

Neubrigenfis,
 l. ii. c. 36.

Benedict.
 Abbas.
 Hoveden.

Henry sallied from the gate he had opened, at the head of his cavalry, to make an attack on the quarters of the king of France, hoping (as it seems) to have found the French unprepared: but on his approach a strong body of their horse came forth, having been ordered by Louis, from a prudent apprehension of such an assault, or intelligence given of it, to be ready in arms before his camp. The conflict was sharp: on the side of the French some knights were taken prisoners, and some wounded, and twenty horsemen of an inferior degree were killed: but Henry, who had counted on surprising the enemy, finding himself disappointed in that expectation, thought proper to retire, lest more troops should come up from other parts of the camp. What loss he sustained we are not told; but, as no notice is taken of it by those who mention this action, it probably must have been small.

Brompton,

col. 1098.

Benedict.

Abbas, t. i,

p. 86.

The next day the confederates made their retreat in good order, having first sent away all their sick and wounded men. The earl of Flanders, who was thought the ablest general among them, commanded the rear. Henry did not pursue them; the forces he had with him there, though sufficient to secure his principal object, the defence of the town, not being able to face so superior an army in the open field: but a great number of arms, and some parts of their heavy baggage, were left a booty to his Welsh and other irregular troops.

Diceto,

BOOK IV.

A. D. 1174.

Thus, with no small dishonour to the confederate princes, on the twenty-fourth day of August in the year eleven hundred and seventy-four, was Rouen delivered from a siege which to carry on with success the utmost efforts of France, and the two powerful earldoms of Flanders and Boulogne, had been exerted in vain. The next morning the earl of Blois, and the archbishop of Sens, came thither as ambassadors from the king of France with overtures of a peace, and obtained of Henry that a conference between him and the monarch should be held at Gisors on the eighth of the ensuing September, for settling the conditions.

Neubrigenfis,
l. ii. c. 37.
Diceto, col.
582.

All the confederates, even those who had been the incendiaries of the war, now desired to end it; every enterprise they had formed with confident hopes of success from an apparent and great superiority of strength, having been strangely defeated, by such a series of accidents favourable to Henry, that the immediate hand of God seemed to shew itself in supporting and maintaining his cause. The earl of Flanders, whose conscience had been sharply stung the last year, upon the death of his brother, Matthew earl of Boulogne, with a sense of his own guilt in this unnatural quarrel, was now struck with a greater dread of the vengeance impending on perseverance in that guilt. For, his youngest brother, named Peter, who, after the loss of the elder, had

at his entreaty, resigned the archbishoprick of BOOK IV.
 Cambray for the earldom of Boulogne, was A. D. 1174.
 dangerously wounded at the siege of Rouen, Benedict.
 which more afflicted this prince, as, having Abbas,
 no child himself, and not expecting to have t. i. p. 56.
 any, he intended to make him his heir in the
 earldom of Flanders and all his other domi-
 nions. It was therefore his wish to extinguish
 these destructive fires of discord, which he
 feared would at length consume all those who
 had either kindled or fed them for the pur-
 poses of their own unjustifiable ambition. The
 only doubt was, whether Henry should con-
 sent to make a peace, when his revenge and
 his glory seemed equally to demand the con-
 tinuance of the war against enemies disappoint-
 ed in all their undertakings. But no advan-
 tage which triumphs over them could give
 was of so much importance to the happi-
 ness of his life, or the welfare of his realm,
 as recovering his children out of their hands,
 and reclaiming them from the errors into which
 their inexperienced youth had been drawn,
 by having them again under his own tuition.
 It was also evident, that the friendship and
 favour of the pope, very necessary to him in
 the present conjuncture, might be lost by his
 making an offensive war against Louis, from
 ambitious or vindictive views alone, when that
 king, to whom Alexander owed much regard,
 no longer abetted the revolt of his sons, for
 the suppressing of which, and not for the en-
 larging of the bounds of his empire, he had

BOOK IV.

A. D. 1174.

Benedict.
Abbas.
Hoveden.Hoveden,
pars ii.

asked assistance from Rome. Nor could he be sure that those princes, whose great forces he had baffled, but not subdued, might not defend their own territories with more spirit and fortune than they had attacked his, if compelled to exert the utmost stretch of their power, for self-preservation. He therefore came with such moderate and pacifick dispositions to a conference with Louis, that the suspension of arms between him and all the confederates, except his son Richard, was prolonged from the eighth to the twenty-ninth of September, on which day another conference was appointed to be held, for the final conclusion of the peace then agreed to, at a place between Tours and Amboise. In the meantime permission was given to Henry to make war against Richard, who, having gained the possession of certain castles in Poitou while the French besieged Rouen, singly refused to accept the conditions proposed. The other confederates swore that they would not assist him and strictly observed their engagement; so that helpless, and flying, with a few of his barons from one retreat to another, as Henry approached with his army, he was soon constrained, notwithstanding the stubborn pride of his mind and the intrepidity of his heart to submit without reserve to the mercy of the king. On the twenty-first of September he threw himself weeping at the feet of his father and implored his forgiveness. Henry raised him from the earth, and took him to his bosom.

son, with the kindest marks of paternal tenderness and affection. They went together to the place appointed for the conference with the king of France, at which likewise were present the two brothers of Richard, Henry and Geoffry Plantagenet, and all the greater vassals of the French crown, except the earl of Flanders.

It was there agreed, that the princes, Henry, Richard, and Geoffry, should return to their father, and to the obedience they owed to him as their sovereign, being freed themselves, and freeing all his barons and vassals engaged with them in rebellion, from all oaths or covenants by which they had been bound against their allegiance, to which and to their homage the said barons and vassals, thus absolved, should return. A restitution of lands and castles, as they had been held fifteen days before the rebellion, was to be made on both sides. Henry the elder bound himself to remit his displeasure against the barons who had fallen off from him, so as to do them no hurt on that account, while they should continue to serve him faithfully as their liege lord. In like manner the young Henry remitted his displeasure against all those, as well of the clergy as of the laity, who had taken part with his father; and gave his oath to that prince, that he would do them no hurt either in their persons or goods, nor procure any to be done to them on that account, so long as he should live. Two castles in Normandy, at the choice

V. Rymer's
Fœdera, p. 37.
See it also in
the Appendix
to this Book.

of his father, and a yearly revenue of fifteen thousand pounds in Angevin money, were to be given to him; and to Richard two places, fit for his reception, in the province of Poitou, but such as would not enable him to do his father any mischief, with half the revenues of that province in money. Half of those which Geoffry claimed to enjoy in Bretagne, by virtue of the marriage agreed upon between him and the daughter of Conan, were granted to him in present, and the rest was promised, as soon as, conformably to the will of her father, that marriage should be celebrated, with the consent of the pope. The prisoners who had made a composition with the king before the peace, namely the king of Scotland and the earls of Leicestershire and of Chester, and Radulph de Fougères, with the hostages they had given, and those other captives which the king had before received, were not to be included in the present convention. All other prisoners on both sides were to be set at liberty; but the king was impowered to take hostages, at his will, from those who were able to give them, and from others the security of their own oaths and the oaths of their friends. The castles in the king's territories, which had been fortified or repaired since the beginning of the war, were to be put, at his pleasure, into the state they were in before the war. The young Henry on his part, engaged himself to his father, that he would confirm and establish all the grants

of crown-lauds which his father had made or should make for charitable uses, or to his vassals for their services performed to him; and particularly that which he had made to prince John, his youngest son, consisting of three thousand pounds per annum in England, Normandy, and Anjou; of two castles in England with all their appurtenances, two in Normandy, one in Anjou, one in Maine, and one in Touraine. The king, out of affection to his eldest son Henry (as the words of the treaty express it) remitted to those who, in any of his territories, had gone from him to that prince, the forfeitures they had incurred, and permitted them to return in peace, without being answerable for the goods or chattels they had carried off with them; but for murder, treason, or maiming, they were to answer according to the law and custom of the realm. As for those who had fled for any offence before the war, and come into the service of his son, he likewise allowed them to return in peace, giving pledges to stand to the judgement of the law concerning such matters, antecedent to the war, as should be laid to their charge. Those who had been impleaded before they went to his son might return, but their causes were to be in the same situation as before their departure.

The young King Henry gave security to his father, that he, on his part, would firmly keep this convention; and it was also given jointly by him and his two brothers, that they

BOOK IV. A. D. 1174. would never, against their father's will and good pleasure, demand of him more than he had now granted to them, as here prescribed and determined, nor ever withdraw from him their persons or their services. Richard and Geoffry did him homage for what he had granted to them; and his eldest son, Henry, would likewise have done it; but on account of the royal dignity conferred on that prince he refused to receive it, only taking from him sureties.

This homage was not offered for the kingdom of England; the royal dignity of this prince, though subordinate to his father's, being not of a feudal nature; but it was on account of the territories in France given to him by his father, whose superiority in those fiefs he would thus have acknowledged; as his brothers had done in theirs; concerning which I shall have occasion to speak more particularly hereafter.

Neither Louis nor the earls of Flanders and Boulogne are named in this convention, because, having taken arms as auxiliaries to Henry's sons in the war, they had nothing to settle with him, except what related to the compacts with those princes, which this convention annulled; and because he desired that the favours, conferred thereby on his sons, and the pardon granted to his rebellious subjects, should not appear to have been gained through any intervention of foreign powers, but

but should be received as effects of his own free grace.

The lands and castles, which the earl of Flanders had taken in Normandy, and held, not for himself, but for his confederate, the young king of England, were among the restitutions here agreed to be made. On the other side, in pursuance of the above recited convention, no fewer than nine hundred and sixty-nine captive knights were freed by Henry without ransom: nor of those prisoners who were excluded from the benefit of that treaty was any one put to death, or condemned to suffer in his limbs, his liberty, or his fortune: an instance of mercy to which no parallel can be found in the whole history of mankind!

The question is, whether it did not extend too far? because, though the youth of the three offending princes excused their guilt, and natural affection pleaded for them in the heart of their father, yet those by whose counsels they were instigated to such an atrocious rebellion might well have been thought proper victims to the justice of the crown, for the safety of the king, and tranquillity of the kingdom. But Henry considered, that if he punished these traitors with the rigour due to their crime, all his most faithful subjects, who had served him best in this war, would be exposed, at his death, to the vengeance of his successor, and of his two younger sons, in their respective dominions. Even during his life many accidents might put it in the power of those princes, if provoked by severities

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severities against their adherents, to revenge themselves in this manner. He therefore generously preferred the future security of his friends to the many reasons of policy which might otherwise have opposed so unlimited a pardon, and to his own just re-sentments. When this resolution was taken, which necessarily obliged him to spare the most guilty, he could not equitably proceed with more severity against those who less deserved his displeasure.

As for Queen Eleanor, it appears, that he did not suffer her name to be mentioned in this treaty; but kept her in prison at his own discretion. Yet, provoked as he was, he felt that she also had received some provocations from his infidelity to her bed, and would not call her to a strict account of her conduct, nor subject her (as it was in his power to do, and as a prince of less humanity, thus offended, would have done) to the rigour of the laws against high treason.

In his proceedings with the captive king of Scotland the same spirit of lenity directed his counsels, but not without that regard to the interests of his kingdom, which policy seemed to demand, and justice certainly authorised, as things then stood. The most natural and most reasonable object of ambition for a great king of England must have been the subjecting to the sovereignty of his crown the whole island of Britain. A fair opportunity now presented itself to obtain that advantage with
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the consent of the Scots, by making it the price of the liberty of their sovereign, who was abandoned by all his confederates and allies; who, as a vassal to Henry for some territories held by fealty and homage, was guilty of high treason; whose life was in the power of that offended monarch, and whose kingdom was in great and imminent danger of being destroyed by his superior forces, with the concurrence of its own rebellious subjects, the savage Galwegians. For these barbarians, who had done so much mischief in England under the orders of William, before his misfortune, had now revolted against him, had expelled all his officers out of their country, had taken and destroyed all his castles and fortresses there, and put the garrisons to the sword. Scotland itself was a scene of anarchy and of blood; the Scotch army, in returning out of Northumberland, having massacred all the English who served among them or dwelled within their borders. Of these the number was great; for we are told by a good contemporary historian, that the towns and burghs of the Lowlands were chiefly inhabited by men of that nation, whom the kings of Scotland had drawn thither and settled therein, under their special protection. A national hatred against them, which the royal authority had restrained, being now freed from that curb, broke forth with such fury, that none escaped from it, except those who had the fortune to get into some castle, or fortified city, belonging to the crown. In this distracted

Benedict.
Abbas,
t. i. p. 77.

Neubrigenfis,
l. ii. c. 34.

Ibidem.

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A. D. 1174.

Diceto, col.
584.Rymer's Fœ-
dera.
See also the
Appendix to
this Book.

distracted condition the kingdom appeared incapable of defence, if Henry should attack it, after all his other enemies were entirely subdued. To redeem therefore themselves and the whole state from ruin, as well as their sovereign from captivity, the Scotch nobles and prelates were willing to give up the ancient independence of the crown of Scotland, and subject it to that of England, which Henry required, as the sole condition of peace. Many of these were admitted to confer with their king in the castle of Falaife, to which he had been removed from that of Caen; and a great council of them assembled, on the eighth of December, at Valogne in the Cotentin, a province of Normandy, where they advised him to conclude a final agreement with Henry on the terms before settled between him and that prince. This was executed in a subsequent meeting of both kings, at the castle of Falaife, as appears by a written declaration made there, which notifies that liege homage, without any reserve or exception, had been done to Henry, king of England, by William, king of Scotland, *for that kingdom*, and for all his other dominions; William having, at the same time, sworn fealty to Henry, as to his liege lord, in like manner as other vassals use to do to their prince; and that homage had also been done and fealty sworn by William to the young king of England, saving the fealty due to the king his father. It was further agreed, that all the bishops, abbots, and others of the clergy, in the territories

stories of the king of Scotland, from whom Henry should desire to receive liege homage, should do it to him in such manner as it was usually done by other bishops to their prince, and likewise to the king his son, and the heirs of both. Moreover, the king of Scotland, and David, his brother, and the earls and barons of Scotland, and other vassals of that king, granted to Henry, their lord, that the church of Scotland should thenceforwards pay that obedience to the church of England, which was due to it, and had been usually paid in the times of his royal predecessors: to which concessions some Scotch prelates, who were then present, agreed, and the absent clergy of that nation were bound to agree, in virtue of this convention. Liege homage was to be done and fealty sworn to Henry, without reserve or exception, by all the earls and barons of the territories of the king of Scotland, from whom Henry should desire it, in the same manner as by his other vassals; and also to his son, the young king, and to the heirs of that prince, saving the fealty due to his father. The heirs of the king of Scotland, and the heirs of his earls, barons, and tenants in chief, were likewise obliged to render liege homage to the heirs of the king of England. Fugitives from England for felony were not to be harboured in Scotland, but to be delivered up to the king's officers of justice, unless they would return to take their trial in his court: but fugitives from Scotland for the like offence might

BOOK IV.

A. D. 1174.

might be tried in the court of either king, and refusing to stand to the judgement of either were to be delivered back to the officers of the king of Scotland. The vassals of each king were to enjoy the lands which they held, or claimed to hold, under the other. As a security for the entire performance of all these articles, it was agreed that the castles of Berwick, Roxburgh, Jedburgh, Edinburgh, and Sterling, should be delivered to Henry by the king of Scotland, and this prince was to bear the charge of their custody, as rated by Henry. He also gave to that king his brother David, as a hostage for the delivery of the castles, and twenty more of the chief nobility of his realm, among whom were his constable, his chancellor, and four earls; but Henry permitted them all, except the king's brother, to substitute their sons, or next heirs, instead of their own persons, as hostages to him; and when the castles should be put into his hands these were to be freed, together with the king and his brother. Security was given to Henry by the king and his barons there present, that they would do all in their power to procure from those who were absent the same acknowledgements of his sovereignty as he had received from themselves. It was also stipulated that hostages should be delivered to him by those of the absent vassals of William, from whom he should chuse to demand them. And the bishops, earls, barons, and other vassals of William, engaged themselves to Henry, and to the

the young king his son, that, if William, upon any pretence whatsoever, should recede from this convention and from his fealty to those princes, they would stand by Henry, as their liege lord, against him and against all the enemies of that king; and the bishops would put the territories of William under an interdict till he should return to his fealty. Among the witnesses to this declaration were the two princes Richard and Geoffry Plantagenet.

The feudal subjection of Scotland to the crown of England being thus settled and secured, the whole attention of Henry was employed for some time on his affairs in France.

The demolition of the castles built or fortified by the rebels in his territories there was his first object, being of no small importance to the future obedience and tranquillity of those

Benedict.

Abbas,

t. i. p. 94,

95, 96, ad
ann. 1175.

countries. In Anjou he himself supervised the execution of this part of the agreement he had made with his sons; but in Poitou and Bretagne he committed it to Richard and Geoffry Plantagenet, that he might appear to confide in their return to their duty, and that he might make them his ministers in reducing the power of the lords of those castles, by whom they had been aided in their revolt against him. At the same time, he took care, that his own fortresses in those parts should be put into a better state of defence, and strongly garrisoned with such men as he could trust. On the feast of St. Matthew, in the
year

BOOK IV. year eleven hundred and seventy-five, he and
 A. D. 1175. his eldest son had an amicable conference with
 the king of France at Gisors, where, intending soon afterwards to return into England, they took leave of that prince; but, Henry finding it necessary to go first into Anjou, his son was left at Rouen, where several messengers came to him from Louis, exhorting him not to venture to go into England with the king, his father, who, as soon as he should have him in his power there, would confine him in a prison. This suspicion was grounded on some things he had done offensive to his father since the reconciliation, and on that monarch's refusal to accept his homage, as well as that of his brothers. So much was he terrified by these repeated advices, that, when his father returned from Anjou into Normandy, and sent orders to him to come to Caen, from whence they were to go and take shipping at Barfleur for their voyage to England, he refused to obey.

Benedict.
 Abbas,
 ut suprâ.

V. Diceto
 Imag. Hist.
 col. 586.
 Benedict.
 Abbas, ut suprâ.

Diceto, ut
 suprâ.

Henry, informed of the reasons which produced this reluctance, assured him, by many gracious messages to him, that he had nothing to fear. Thus encouraged, and desiring, by extraordinary acts of humiliation, to convince his father of the truth of his repentance, he went to him at the castle of Bure near Caen, and throwing himself at his feet, in the presence of many nobles of Normandy and of England, with a great effusion of tears, implored his forgiveness of all
 he

he had done to offend him, before the war, in the war, or after the war, and most earnestly begged, that, as his father and lord, he would receive from him homage and an oath of allegiance; adding, that till he permitted him, as he had done his two brothers, at their humble request, to give him these pledges of future loyalty, he should never believe his indignation against him entirely removed.

Henry, touched with this mark of his filial piety and contrition, assented to his desire; and thereupon he did homage, and not only took the oath of allegiance, but swore, that he would be guided, in the whole ordering of his household and all his other affairs, by the counsels of his father, *and as long as he lived would do no harm to those vassals, who had served his father in this war, on account of that service, but would honour and promote them, as men who had been faithful, both to that king and to him.* For the performance of these spontaneous promises, the Archbishop of Rouen, William de Mandeville earl of Essex, and other barons there present, took on themselves to be sureties; and he proposed to add to them the king of France, the earl of Flanders, the earls of Champagne and of Blois, his brothers, Richard and Geoffry, the archbishops of Canterbury and York, and all the other spiritual and temporal lords on both sides of the channel, under this condition, that, in case of his violating the above-mentioned engagements, they should unanimously stand

BOOK IV. by his father against him, and give him no
A. D. 1175. aid, nor advice, except to exhort him to return to his father.

From all this it appears, that much distrust had attended their former reconciliation, particularly with relation to that great point, which Henry had most at heart, the security of his friends from the vengeance of his son when he himself should be no more : but, all jealousy being now removed on both sides, he sent him to Louis, in order to satisfy that king, his father-in-law, that he would be in no danger by going to England, and that confidence would henceforth be perfectly re-established between the English and French courts.

On his return from this visit, he and his father celebrated, in happy concord, together, the festival of Easter, at Cherbourg, and afterwards went to Caen, where the earl of Flanders desired an interview with them.

This prince, whose mind was agitated with a tormenting remorse, on account of the war he had made against Henry, in order to expiate that crime, and atone for the blood of many of his own subjects unjustly spilt in his quarrel, had taken the cross on Good Friday, and proposed to set out, at the beginning of summer, on his journey to the Holy Land, accompanied by his brother, whose wound was now healed, and by many of his subjects; but he thought it necessary first to wait upon Henry, and renew with him that league of friendship
 and

Diceto, col.
 385.
 Benedict.
 Abbas.

and alliance, which his conscience reproached him for having perfidiously and ungratefully broken. In this meeting he gave up to Henry the charter, containing a grant of the royal castle of Dover and the earldom of Kent, most imprudently made to him by the young king of England, and released that prince from his oath to fulfil this engagement: in return for which the two kings confirmed to him the subsidy, they had formerly granted by the treaty of the year eleven hundred and sixty-seven. This being done, they went from Caen to Barfleur, and embarking there sailed to Portsmouth, where, to the infinite joy of all their good subjects, they landed together upon the ninth of May, in the year eleven hundred and seventy-five, and, for some time afterwards, dined together, every day, at the same table, and lay, every night, in the same bed.

BOOK IV.

A. D. 1175.
Hoveden,
et Authores
ciratos ut su-
pra.

Diceto, col.
585.

On the eighteenth of May the archbishop of Canterbury convened, with their consent, a synod of the prelates and clergy of his province, which made several canons; the most important of which I shall mention hereafter, in treating particularly of ecclesiastical matters. They were confirmed in a parliament assembled at Westminster on the twentieth of May, to which was read, in the presence of the royal father and son, a notification of what had passed at Bure between those two princes, which had been sent into England by a letter from Henry presently after that meeting; and, on the same day, all the spiritual and temporal

Gervase.
Benedict.
Abbas.

Diceto, col.
586.

See it also in
the Appendix
to this Book.

BOOK IV. barons became sureties for his son, that he
 A. D. 1175. should perform all the promises made at that
 time: so careful was Henry to bind those co-
 venants on this prince as firmly as he could,
 and so desirous to publish and authenticate a
 transaction, every article of which he thought
 of great moment to the peace of the realm!

From London the two kings went to Can-
 terbury on a pilgrimage to Becket's tomb.
 The coincidence of the king of Scotland's cap-
 tivity with the time when penance had been
 publicly done, in that place, by Henry the
 elder, had exceedingly raised the credit of this
 new saint, to whose powerful intercession that
 unhoped-for event was generally ascribed. The
 monks said, *that the friendship between the fa-
 vourite and the monarch was renewed, and that
 Becket was become the tutelary saint of his
 penitent master.* Henry deemed it expedient
 to countenance this opinion, and therefore
 chose to return his thanks to God, for the
 happy end of the war, at the sepulchre of
 that prelate; which having performed, he re-
 turned to the affairs of his kingdom.

Gervase,
 Chron.

Benedict.
 Abbas.

During the course of this year many castles
 belonging to the rebel barons in England were
 levelled to the ground or dismantled; and
 the tower of Bristol, from which, during the
 late civil war, the earl of Gloucester had ex-
 pelled a garrison of the king, to put it into
 the custody of his own vassals, was restored to
 the crown by that lord, who thus stopped
 the

the proceedings commenced against him by Henry, to recover the right which he, it seems, had disputed. BOOK IV.
A. D. 1175.

Thus ended this rebellion, the first and last ever raised in the kingdom of England without some dispute on the title of the king to the crown, or some difference of religion, or the pretence of some grievance injurious to particulars or hurtful to the publick. Yet, ill founded as it was, it shook the throne! But Divine Providence so assisted the rightful cause of the king, that his enemies fell before him almost without human means, and their malice only served to make his virtues more conspicuous, and his power more extensive. The worst effect of the war was the emptying of his coffers; and, there being no confiscations to repair this loss, he took a method of doing it, consistent indeed with the amnesty he had granted, but not, I think, with his honour. Great destruction had been made of the game in his forests, during the late troubles; not only the rebels, but all who bordered thereupon, having hunted therein, without restraint. For this offence he now called almost all the nobility, and many of all the inferior orders of men, to a strict account in his court. They pleaded a general liberty granted, in the disorder of those times, by the regent of the kingdom, to hunt in the king's forests. Such an indulgence much exceeded the favour which Henry had really done to his people, by having, from

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Benedict.
Abbas,
t. i. p. 112.

BOOK IV. the first beginning of his reign, so relaxed the
 A. D. 1175. severity of the forest laws, that no offences
 against them were punished, as before, by loss
 of life or of members, but only by amerce-
 ments. It was enough to adhere to that hu-
 mane mitigation, with some abatement of the
 mulcts: nor could it easily be supposed that
 his fondness for hunting, which was one of his
 strongest passions, would permit him to do
 more. Nevertheless some contemporary wri-
 ters affirm, that Richard de Lucy, the regent,
 for his own justification, and in defence of all
 those to whom he had given so extraordinary
 a licence, produced to Henry an order, sent
 to him by that monarch during the rebellion,
 which commanded him to throw open all the
 forests in England, and suffer the deer to be
 taken. They add too, that he was ordered
 to destroy the royal fish-ponds, and give the
 people the fish. It is more credible, that he
 thought, it was prudent to wink at the viola-
 tion of the laws for preserving the king's game,
 while the safety of the realm itself was at
 stake; and that in those circumstances Henry
 had approved of his conduct: but such a con-
 vivance laid no restraint on that prince from
 prosecuting those who had trespassed in this
 manner, at any other time, if he should in-
 cline so to do. Yet he would have acted more
 suitably to the generosity and magnanimity of
 his former proceedings, if, forbidding the con-
 tinuance of this licentiousness for the future,
 he had forgiven the past, and not disturbed,
 by

Benedict.
 Abbas,
 ut supra.
 Hoveden,

by the general vexation and terror of these unexpected prosecutions, the tranquillity of his kingdom, which in greater matters he had done so much to establish. He did not, indeed, violate his act of grace to the rebels by bringing against them this charge, because it did not relate to the treasons there pardoned, and because he proceeded with equal severity against many loyal subjects, accused of the same offence. But these, whose fidelity had entitled them to all the favour of the crown, thought their services ill requited, when they found themselves thus confounded, as delinquents against it, with the most notorious traitors; and much of the gratitude, which the clemency shewn to the latter would have naturally produced, was lost by their suffering disquiet and damage for lighter misdemeanors. The method of proceeding was also extremely odious, if we may believe an historian of considerable authority Diceto, who lived in those times; it being carried on (as he says) by a general inquisition made upon oath, before the king or his justices, and *hearsay* evidence being taken. Even making some allowances for exaggerated reports, it must still appear an ill-judged, impolitick act; and, supposing it done notwithstanding a permission accorded by Henry, it would deserve a worse censure; as there can be nothing more dishonourable to the character of a king than laying snares for his subjects, to extort money from them, and turning the laws into engines of oppression. Henry was not without fear of

BOOK IV.
A.D. 1175.

Benedict.
Abbas.

some danger to his person from the resentment it caused, or from other grounds of suspicion, not so publickly known: for, in a council which he held, about Midsummer, at Woodstock, he issued a proclamation forbidding all who had joined in the rebellion against him to come to his court or great council, unless particularly summoned; and likewise ordered, that none should stay in his court after sunset, or come into it before sunrising, or go armed with bows and arrows, or sharp-pointed knives, in any part of the realm on the English side of the Severn. But these ordinances did not long remain in force.

While the king was at Woodstock, four knights, accused of having murdered one of his foresters, and some accomplices in their crime, were brought prisoners to him, and soon afterwards were condemned and hanged at Litchfield. One may presume, that the cause of their committing this outrage was the forester's opposition to that liberty of hunting in the king's woods, so generally taken for some time past.

Benedict.
Abbas.
Brompton.

On the twenty-ninth day of June the king and Henry his son held at Gloucester a great council, for the settling of the peace of South Wales and the borders.

Welsh Chron.

The commotions occasioned by taking from Jorwerth Caerleon upon Uske, and by one of his sons having been killed by the English in the manner before related, had been effectually stopt, in the year eleven hundred and seventy-two,

wo, by the commission of chief justice over all South Wales, which Rhees ap Gryffyth had then received from Henry, and which he exercised with great prudence and with a laudable fidelity towards that prince. But, when he was drawn away, in the year eleven hundred and seventy-four, to serve in England against the earl of Derby, Caerleon upon Uske, which the English had rebuilt, was retaken by Jorwerth; and the castle, which for want of battering engines he could not take, was also yielded to him, in exchange for the prisoners he had made in the town. Yet, the next year, they were both recovered by the English; and Rhees ap Gryffyth, returning into Wales from the siege of Tutbury castle, persuaded Jorwerth and all the chief men of his family to go with him to Gloucester, and make their submissions to Henry, in confidence of a pardon for all former offences, to be obtained of that king through his mediation. This could not be refused to an intercessor whose conduct, both in Wales and in England, had been so meritorious; nor could Henry himself think, that the resentment which Jorwerth and his family had shewn for the death of his son, all circumstances considered, was without some foundation. He therefore pardoned them all, and, to render his grace more compleat, restored to Jorwerth Caerleon, receiving homage from him, and from the other Welsh lords who accompanied him to this council, some of whom were near kinsmen, either in blood or by marriage,

Benedict.
Abbas.
Brompton.

riage, to Rhees ap Gryffyth. What cause there was, after these had thus renewed their allegiance to the crown of England, for any apprehension of new disorders in Wales, the histories of those times do not explain: but Henry deemed it a prudent, if not a necessary caution, to confederate together all his vassals present there, both English and Welsh, in an extraordinary manner, by making them swear, that if any one of them should be attacked by any other potentate in Wales, all the rest would unite in his defence.

Part of the month of July was spent by the king at Nottingham, in impleading a great number of the inhabitants of that county and the circumjacent parts, for having hunted his deer; and from thence he went to York, where, on the tenth day of August, he was attended by the king of Scotland, who brought thither with him all the bishops, earls, barons, knights, and *freeholders* of his realm, from the greatest to the least, in order to their doing, together with himself, and earl David, his brother, liege homage to Henry, according to the articles of the treaty of peace concluded at Falaife. The castles demanded, as securities for the full execution thereof, had been delivered to persons appointed by Henry to take the custody of them, before this time; and thereupon the Scotch king, with all the hostages he had given, among whom was his brother David, the presumptive heir of his kingdom, had been set free. In this assembly at York the convention

vention of Falaife was publickly read and confirmed; the seals of the king of Scotland and of the prince before-named being set to it, in presence of the estates of both kingdoms; and the feudal acts there required, with all the further securities of oaths and pledges mentioned in it, being compleatly performed. These constituted as valid and binding a surrender of the sovereignty of Scotland and all its members to England, as possibly could be made: and thus Henry became *the first king of all Britain*; the princes of Wales having been subjected before, by liege homage and fealty, to the dominion of his imperial crown; and the Scots, who had never yet submitted their monarchy to that or any other power, consenting now to acknowledge the king of England and his heirs to all perpetuity their sovereigns and liege lords. But what Henry had acquired, with great glory to himself, and great advantage to his people, his immediate successor unadvisedly and impolitickly gave up: since which time the separation of Scotland from England, and the independence of the former (except for a short interval under Edward the first) did much harm to the latter, and kept both countries in almost continual wars, till the happy union of the kingdoms in the sixth year of Queen Ann made the Scots and English one nation, and established the British empire on much firmer foundations than any feudal connexion could have given to it, or any force in the English crown, while the

BOOK IV. realms were divided, could have been able to maintain.

A. D. 1175.
Benedict.
Abbas.

At the conclusion of these proceedings at York, the king of Scotland obtained permission from Henry to employ his arms in reducing the rebellious Gallowegians to their former obedience. Gilbert and Uctred, sons of Fergus who descended from the ancient princes of that nation, had, on the death of their father, divided between them the inheritance of the country, and, as vassals to Scotland, had served under the orders of William the Lion in the late war against Henry: but, when William was a captive, they sent to Henry in France supplications and presents, imploring him to receive them under his dominion, and protect them, as his subjects, against the Scots. The younger of them, Uctred, was Henry's kinsman by his mother; and the proposal they made seemed highly advantageous to the interests of that king. He therefore commissioned his chaplain, Roger de Hoveden, who afterwards wrote the history of his reign, and another ecclesiastick, to treat with these princes. But, before they set out, the elder brother, impatient of a partner in his power, had, by the help of his son, imprisoned the younger, and cruelly put him to death. A civil war had ensued; the murdered chieftain having left a son, who fought bravely to revenge his father's blood, and to guard for himself the inheritance which he claimed. Nevertheless, at the time when the English envoys arrived,

Hoveden, ad
ann. 1174.

Benedict.
Abbas, t. i.
p. 92, 93.

Neubrigensis,
l. ii.

hey found Gilbert in possession of the whole
 province of Galloway, the sovereignty of
 which, to obtain the king of England's pro-
 tection, he and his people unanimously of-
 fered to that monarch, with a yearly tribute
 of two thousand marks of silver, of five hun-
 dred cows, and an equal number of swine.
 But Henry, being informed of the murder of
 his kinsman, and knowing too, that, in driving
 out the Scots, the Gallowegians had massacred
 many English and Normans whom they found
 in their country, refused to take these barba-
 rians under his protection, or make any treaty
 with them. This conduct does him honour;
 and it was generous in him to permit the
 king of Scotland to recover this province,
 though he was not bound to do so by the
 treaty of Falaise, and though Galloway had
 been anciently under the dominion of the
 Northumbrian kings, whose rights descended
 to him, if claims so remote can be consi-
 dered as rights. Indeed the Scots had no rea-
 son, through the whole course of this affair,
 to complain of his making an immoderate or
 vindictive use of his fortune. It is therefore
 no reflection (as some have supposed) on the
 magnanimity of the nation, that they gave
 up, at this time, the independence of their
 state, to save it from devastation, from con-
 quest, from destruction. The spirit they af-
 terwards shewed against Edward the First,
 who fraudulently and violently, in breach of
 the trust reposed in him, and without being
 provoked

BOOK IV.

A. D. 1175.

Benedict.

Abbas, ut
supra.Neubrigensis,
l. ii.

BOOK IV.
A. D. 1175.

provoked by hostilities on their part, usurped the sovereignty over their kingdom, sufficiently proves that in thus submitting to Henry they considered the injustice of the war they had made, the barbarity with which they had carried it on, the guilt of the rebellion they had abetted, and therefore yielded, without any such violent efforts as arise from a sharp and indignant sense of ill usage, to the compensation required for the offences committed by their king and by them, against the realm and against the person, of this prince.

Benedict.
Abbas,
t. i. p. 122.

About Michaelmas, in the year eleven hundred and seventy-five, arrived in England three ambassadors from Roderick O Conor, king of Conaught, namely, his chancellor, and the archbishop of Tuam, and the abbot of St Brandon. But, before I relate the occasion of their coming, it will be necessary to give an account of events which had happened in Ireland from the time when Henry left it till the period above-mentioned.

It is probable that the taking the administration of East Meath from O Ruark, prince of Bressny, and giving the province entire to Hugh de Lacy (in whatever manner it was done) produced great resentment in the heart of O Ruark, which burned there undiscovered so long as King Henry continued in Ireland but, soon after the departure of that monarch from thence, began so far to break forth, as to cause apprehensions that the peace of the kingdom might thereby be disturbed: to prevent which,

which, through the mediation of some friends on each side, a conference was appointed between him and Lacy, lord lieutenant of Ireland. Oaths and sureties having been reciprocally given, they met on a hill not far distant from Dublin, accompanied on each side by a small and equal number of their friends and attendants. It was agreed that the English should only be armed with their swords, and the Irish with their axes. The two chiefs conferred together apart from the rest, assisted by one unarmed interpreter. But a knight, named Gryffyth, who was nephew to Maurice Fitzgerald and one of Lacy's band, having conceived a suspicion of some treachery intended by O Ruark, expressed his fear to his uncle, and with the consent of their chief drew off seven knights, who were all his own relations, to another part of the hill, where they immediately took their horses and arms, brought thither by his orders, and began to tilt with each other, wheeling constantly round the place of conference, so as to be within call if any tumult should happen. After some time had been spent in angry disputes between Lacy and O Ruark, the latter, pretending a necessity to withdraw a little while out of fight, gave a signal to some bands of Irish foot-soldiers, whom he had concealed in a valley, that they should come to him, and then returned towards Lacy. But Fitzgerald, who watchfully observed all his motions, seeing him advance with large strides, with a pale visage, and with his axe lifted up, in-

BOOK IV. constantly drew his own sword, and, admonishing
 A. D. 1175. Lacy to be careful of himself, loudly called upon
 Gryffyth to hasten to his succour. But, before Lacy had time to draw his sword, O Ruark aimed a blow at his bare head, which cut off the arm of the interpreter, who interposed to ward it off. Lacy retiring fell twice; but was protected and saved by the valour of Fitzgerald, who opposed his sword to the axe of the treacherous Irish chief. At the same instant, the bands which O Ruark had called to him, and the horsemen led by Gryffyth, arrived on the spot where this encounter was passing. The Irish prince, who foresaw that his infantry would not stand the shock of this cavalry armed with lances and strong shields endeavoured to escape on a horse, which three of his nobles brought to him; but, just as he was mounting, he and his horse were pierced through, by one violent push of Gryffyth's lance, and fell dead together. The three nobles were slain, and a great slaughter was made of all the Irish foot, in the open fields, over which they fled dispers'd. After the action the head of O Ruark was cut off, and set up on the great gate of the castle of Dublin; and his body was hung, with the feet upwards, on the gallows; a spectacle very dreadful and shocking to the Irish, who had never been accustomed to see the rebellions of their princes or chieftains so ignominiously punished!

Irish Annals,
 Hibern. Expugnatio, l. i.
 c. 40.

Giraldus Cambrensis, who is often too fond of superstitious tales, says, that Gryffyth's

picio

dition was owing to a dream, which he had dreamed the night before, and in which he had seen a multitude of wild swine, rushing out of their cover, with great fury, against Fitzgerald and Lacy; but before the others one boar, of a very enormous size, from whose tusks they were saved, and with difficulty saved, by the assistance he gave them.

What appears from the facts, as they are told by Giraldus, is, that certainly Lacy's life was preserved in the conflict by the precautions which Gryffyth, distrustful of the Irish, had prudently taken, that morning, in concert with Fitzgerald.

On Henry's return into England out of Normandy, the head of O Ruark was taken down from the gate of the castle of Dublin, and sent to him in that kingdom. What he did with it there we are not told. But the death of this chieftain gave to Lacy, for some time, a quiet possession of all the great province of Meath, which he held of the king, as his immediate vassal.

Hibern. Expugnatio. l. i. c. 40.

In the year eleven hundred and seventy-three, Earl Strongbow, to whom Henry had confirmed the possession and government of Leinster, on the terms before mentioned, made war on O Dempsey, the chieftain of Ophally, a district in that province, for refusing to attend his court, when summoned. In this expedition he was accompanied by Robert de Quiney, to whom he had given in marriage his daughter by the countess of Pembroke,

broke, his first wife, and with her, as a portion, the highest military office he had in his gift, that of constable of Leinster. They ravaged the whole country without resistance but, when they returned, with the booty they had gained, towards Kildare, just after the vanguard, under the conduct of Strongbow had past through a defile, O Dempsey fell on the rear. Robert de Quincy was slain with many of his knights, and the banner of Leinster was taken. The death of the constable who was well beloved by the troops, and very dear to the earl, did not not affect him or them with more concern, than the disgrace which their arms, for the first time, had suffered, and which, it was feared, would excite the courage of the Irish, easily rendered presumptuous by good success, to further acts of rebellion. The earl probably would have tried, by some enterprize better conducted, to repair his honour and revenge his son in law's death; but he had no time to do it, being soon afterwards called, by orders from Henry to assist him in France, against his enemies there, with all the force he could bring. This mandate he obeyed, though with evident danger to his own great possessions in the province of Leinster; and the king was so pleased with such a proof of fidelity in one to whom he had shewn no extraordinary kindness, that he gave him the custody of the castle of Gisors, trust of the greatest importance. But, after the
victor

victory over the rebels in Bretagne, and other advantages he had gained in France, before the end of autumn in the year eleven hundred and seventy-three, he sent back this lord, whose presence he then thought more necessary in Ireland, with signal marks of his favour: for he took from Hugh de Lacy the government of that kingdom, and conferred it upon him. The custody of Dublin, annexed to the office of viceroy, was also committed to him: besides which, Henry gave him the royal city of Wexford, and a castle in those parts. Hugh de Lacy, with a prompt and meritorious obedience, retired from Dublin into Meath; but Robert Fitzstephen, whom Henry had left in that city under Lacy's command, was now ordered into Normandy, with Maurice de Prendergast and Robert Fitz-Bernard. The last of these, as lieutenant in the government of Waterford to Humphrey de Bohun, who had gone before into England, was commanded to take with him the whole garrison of that place, when he had surrendered the custody thereof to Strongbow, who was required to send thither a competent number of other troops, according to his discretion. The three knights above-mentioned passed over into England about the beginning of October, and found the rebellion then raging in that kingdom, where, in consequence, I presume, of new orders from Henry, they joined his army commanded by Humphrey de Bohun,

BOOK IV
A. D. 1173.

Hibern. Ex-
pugnat. l. i.
c. 43.
Lambeth
Manuscr.

BOOK IV. and did him good service against the earl of
Leicester.

A. D. 1173.

Giraldus

Cambr.

Hibern. Ex-

pugnat. l. ii.

c. 1.

During the absence of Strongbow confederacies had been formed, among the princes of Ireland, to seize the opportunity of the dangerous wars; both intestine and foreign, which disturbed all the other dominions of Henry and shake off the yoke of his sovereignty over them, by expelling all the English out of their island. But the earl's unlooked-for return with greater power than before, restrained the effects of these designs for some time. Nevertheless no submissions were made to him by O Dempsey, nor did he think it prudent to endeavour to reduce that chief to obedience till the disturbances in England and France were composed, lest it should kindle a general war with the Irish, to sustain which he had not sufficient force. The troops he had were ill paid; the money he had brought with him having been quickly spent, and it being no easy matter, as things were then circumstanced, to draw any more from the king, or from his own lands in England. His soldiers therefore growing mutinous, for want of pay and subsistence, desired to supply their necessities by plunder, and much displeased with the inaction of Hervey of Mountmaurice, who soon after the death of Robert de Quiney had succeeded to the chief command of the army, demanded of Strongbow to be put under the conduct of Raymond Fitzgerald, whom they loved for his liberality, his enterprising spirit, and the

great spoils they had taken when he was at ^{BOOK IV.}
 their head, in the wars they had made as auxili- ^{A. D. 1173.}
 aries to Dermod.

The earl, for many good reasons, was very unwilling to make an alteration solicited in his manner; but the whole soldiery, with one voice, declaring they would leave him and pass over into England, or even desert to the Irish, if he did not comply with their demand, he submitted to a force he could not resist. Raymond led them directly into the heart of Ophally, and got much plunder there; but, this gain rather irritating than satisfying their avarice, they made an expedition into Munster, took Lismore, which they sacked, and pillaged the whole district belonging to that town, on what pretence we are not told. Perhaps they thought it a sufficient cause of war, that the Irish there had some money by means of their commerce with the neighbouring Ostmen of Waterford and Cork, and a great abundance of cattle. The spoils of the town they proposed to send to Waterford, in some ships from that city, and other merchant vessels which they found in the port: but, while these transports, so laden, were wind-bound in the mouth of the river Avonmore, they were attackt by a fleet of two and thirty ships, which the citizens of Cork had sent out to intercept them. The English and Welsh soldiers, whom Raymond had put aboard to guard them, under the conduct of an officer named Adam de Hereford, defended them with

G. Cambrenf.
 Hibern. Ex-
 pugnat. l. ii.
 c. 2.

BOOK IV.
A.D. 1173.

great valour. The chief commander of the enemy's fleet was killed; some of their vessels were taken, the rest returned to Cork; and the victorious party sailed to Waterford, as soon as the wind would permit. In the mean time Raymond, at the head of fourscore knights and men at arms, defeated a body of Irish, whom Dermod Mac Carthy, prince of Cork and of Desmond, had led to Lismore by land, in concert with the Ostmen; and then proceeded, undisturbed by any further opposition, along the sea-coast, to Waterford, with a booty of four thousand cows and sheep, taken by his troops in the territory of Lismore. Elated with this success, he pressed the earl to give him his sister Basilea, with whom he was in love, and the office of constable or standard-bearer of Leinster, till an infant daughter, left by Robert de Quiney, should be married to a man by whom the duty of it could be performed. But, the earl desiring time to consider on the matter, and shewing himself not disposed to grant either part of this request, Raymond, full of resentment, took the occasion of his father's death in Wales, which happened soon afterwards, to return to that country, drawing away with him Meyler, his cousin german and friend, who in all these Irish wars, but more particularly in some actions of the enterprize against Lismore, had eminently signalled his valour. After their departure the command of Strongbow's forces in Leinster was again committed to his uncle, Hervey of Mount-

Lambeth
Manuscr.
Harris's
Hibern,

Hibern.
Expugnat.
l. ii. c. 3.

Mountmaurice; yet the earl, to prevent any mutiny of the soldiers in an expedition he designed to make against Cork, chose to lead them himself, and marched with them to Cashel, where he halted some time, in expectation of a body of English and Ostmen from Dublin, who were ordered to join his army there. But these troops, in their march, being lodged at Ossory for one night, and not fearing the approach of any enemy in that place, were attacked at the point of day, as they slept in their quarters, by a strong party of Irish under Donald O Brian prince of Limerick, and lost four hundred Ostmen, with four English knights who commanded the cavalry employed in this service. The earl hereupon retired to Waterford, and found himself soon confined within the walls of that city; all the country being filled with armies of Irish, who, on the news of O Brian's success at Ossory, as on a signal given, revolted from the allegiance they had sworn to Henry. Roderick O Conor himself, desiring to regain the sovereignty of Ireland, which he had unwillingly yielded up, passed the Shannon from Conaught, and with a great force invaded Meath. Hugh de Lacy at this time was gone over to serve the king, his master, in England, after having portioned out all the lands of that province among his friends and soldiers, to be held under him as baronies or knights-fees, except what he reserved for his own use in demesne. So dangerous a war now coming upon them in

Lambeth
Manuscr.

the absence of their chief, they only endeavoured to save the principal places, abandoning many small forts he had caused to be built for the security of the country. These the Irish destroyed, and ravaged all Meath to the very confines of Dublin. In such circumstances Strongbow, seeing no other resource, dispatched a letter to Raymond, whereby he entreated him to come to his aid with all the forces he could raise, assuring him that immediately after his arrival he would give him his sister. Raymond, equally fired by ambition and love, hastened over with Meyler and thirty other knights, who were all of his own kindred, one hundred men at arms, who served likewise on horseback, and three hundred Welsh archers. He and his band arrived safe in the port of Waterford, at the very instant when the citizens were rising to attack the English in that city. On the sight of the fleet coming in before the wind, with the ensigns of England displayed, their fury yielded to their fear: the tumult was appeased; and Raymond, landing his forces without opposition, conducted the earl from thence to Wexford by land, and all the troops he had with him, except the garrison placed in Reginald's tower, and a few English, who, under the protection of these, chose to remain in the town. But the governor, he left there, not daring to trust to that defence, soon afterwards embarked, with some of his own household, aboard of a small vessel, then lying in the river
and

and navigated by some Ostmén, who promised to carry them by sea to Wexford, but murdered them all as soon as they had them in their power. This was done with the privity of many of their countrymen inhabiting Wexford, to whom returning they instantly massacred all the English in the houses or streets, without distinction of sex or age. Yet the garrison of the tower recovered the town, ex-
 BOOK IV.
 A.D. 1173.

In the mean time Raymond solemnised his nuptials at Wexford, and the next morning led his troops to oppose the depredations which the king of Conaught was making in the territory of Dublin. That prince, at his approach, retired through Meath into his own dominions; and none of the other Irish chiefs, who had confederated with him, daring after his departure to keep the field, Raymond recovered all Meath.

It was reasonable to think that the English, till such time as the civil dissensions in England were entirely composed, would have been content with defending those provinces of Ireland in which they were settled from the attacks of the Irish: but the active spirit of Raymond, and his desire to enrich his troops with plunder, impelled him to make an offensive war on the territory of Donald O Brian, and attempt to take Limerick itself by storm; an enter-

enterprise to which his forces did not seem in any degree proportioned: for, against the great multitude of inhabitants there, who were trained to the use of arms, he brought only one hundred and twenty knights, or heavy armed horse, three hundred light horse, and four hundred foot, who were archers; though the town was walled round, and had a stronger defence by being encompassed by the river Shannon, fordable only in one place, where the stream was very rapid, and the bottom rough and stony. The troops stood on the brink, afraid to attempt so dangerous a passage, when a nephew of Raymond, named David, who was a very young man, and had never before been engaged in any action, spurring his horse forced him forwards into the river, and got safe to the other side, crying out, that he had found the ford. But, none having followed him, except one heavy-armed horseman, named Geoffry Judas, he turned back and rejoined the body of cavalry from which he had gone forth. His companion, endeavouring to do so too, was carried away by the violence of the current into a deeper part of the river, and there drowned. Nevertheless the brave Meyler, being emulous of the courage his kinsman had shewn, plunged into the water, and passing over, unaccompanied by any of the soldiers, to the opposite side, began to fight with the Irish, some of whom opposed his landing on the margin of the Shannon, while those on the walls, which hung over the bank of the river,

cast

cast down upon him a thick shower of darts and stones. Loud shouts were hereupon set up by both parties, which drew Raymond from the rear to the head of his army, where seeing his cousin engaged alone in so unequal a combat, he incited his men, by a short speech, to assist him, and gave them an example more powerful than his words, by passing foremost himself. One knight and two horsemen of an inferior degree were all they lost in the passage; the citizens, struck with terror, fled into the city, shamefully deserting, not only the margin of the river, but the wall and rampart itself. A great slaughter was made of them within the city, and a vast booty gained by the pilage of the houses, which these conquerors thought the best reward of conquest: but it added much to their joy, that they had thus taken vengeance on the prince of Limerick, for the loss of the four hundred Ostmen of Dublin, slain at Ossory by his troops. Raymond left fifty knights, with two hundred other horsemen, and the same number of archers, for the garrison of the city, and then returned into Leinster.

About this time, in a synod of the bishops of Ireland convened at Waterford, the bull of Pope Adrian, which granted that kingdom to Henry, was publickly read, having been, for that purpose, brought over from England by the prior of Wallingford, and William Fitz Aldelm. One should have thought that the king would have carried it with him when he

Girald. Cam-
brenf.
Hibern.
Expugnat.
l. ii. c. 6.

went into Ireland: but, for reasons not explained in the histories of those times, he did not produce it till now; though at his first coming thither he certainly let the Irish clergy know, that the see of Rome had approved his undertaking. Perhaps the harsh expressions in it concerning the nation, and the strange power there assumed of disposing of a free and independant crown, by a gift to a foreign prince from one who had no right to what he gave, made it proper to conceal the grant from the Irish, while a quiet submission of their princes and nobles to the sovereignty of Henry was hoped for by that monarch. The present revolt destroyed this hope; and therefore he now might recur to the papal authority, as the most effectual means to secure the obedience of the clergy of Ireland, by whom the people, whose consciences were under their direction, might, in spite of their rulers, be kept subject to him, or reclaimed from rebellion.

After this synod was dissolved, William Fitzaldelm and the prior of Wallingford returned into England, from whence they went to the king in Normandy, that they might inform him what state his realm of Ireland was in, and from what causes the troubles, which after Strongbow's return had rather encreased than subsided, did, in their opinion, proceed. The report they made was agreeable to the impressions they had taken from Hervey of Mountmaurice, who accused Raymond of having

having made the English troops in Leinster a mere band of freebooters, whose continual depredations had provoked all the Irish, and the Ostmén themselves, to rebel. He added, that it was the intention of this officer, by the aid of these soldiers, to usurp for himself, not only the city and dominions of Limerick, but the whole realm of Ireland; and in proof of this he alledged his having bound them to himself by extraordinary oaths of a treasonable nature. The first part of the charge was not groundless; and, though in the latter the malice of Hervey against Raymond made him exceed the bounds of truth, yet certainly there was cause for jealousy of state in the attachment to Raymond which the army had shewn against the principles of military discipline and obedience. Henry thought it so alarming, A. D. 1174. that in the spring of the year eleven hundred and seventy-four he recalled him from Ireland, sending thither two nobles, with orders to bring him over into Normandy with them, and two others commissioned to remain with the earl, and assist him with their counsels. But, while Raymond, in obedience to this command, was preparing to set sail, intelligence came to the earl, that Donald O Brian, prince of Limerick, had beleaguered that city with a great host of Irish; and that all the provisions found in it, when it was taken by Raymond, or brought into it afterwards, had been consumed in the winter. Strongbow therefore resolved to march instantly to its succour: but

BOOK IV.

A. D. 1174.

all his army refused to go upon this service without their former commander. In these circumstances he consulted the two noble counsellors sent from the king, who joined with him, on account of the pressing necessity, in desiring Raymond to resume the command of these troops so devoted to his person. That general hereupon led forth a detachment consisting of fourscore heavy-armed cavalry, two hundred light horse, and three hundred archers, besides some bands of Irish foot, conducted by the chiefs of Offory and Kinsale, whom family quarrels had made inveterate enemies to Donald O Brian. But, before they reached Cashel in their way to Limerick, they heard that Donald, having raised the siege of that city on the first advice of their march, had taken post in a streight, lying between them and Cashel, and had strongly fenced it against them. On this intelligence they advanced; and when they approached to the streight, the chief of Offory made them this extraordinary speech: “O ye
 “men, whose victorious arms have subdued
 “to you this island, behave yourselves well this
 “day: because, if you conquer, our axes will
 “join your swords in wounding the backs of
 “the vanquished and flying enemy; but, if
 “ye are beaten, these weapons, which always
 “strike on the side of the conquering party,
 “will be certainly turned against you.”

Meyler Fitz Henry, who led the vanguard of the English, hearing these words, which declared what had before been suspected, made
 so

so furious a charge, that he quickly forced his way through the enemy's barricado, with some slaughter of the Irish by whom it was guarded; but most of them fled without fighting. I presume that in this and other assaults of entrenchments, or any fortified places, the English horsemen dismounted and fought on foot, sword in hand; cavalry not being proper for such operations. By the victory thus obtained not only the relief of Limerick was effected, but, within a short time afterwards, Donald O Brian and Roderick king of Connaught had conferences with Raymond, in which, begging for peace, they renewed their oaths of fealty to the king of England, and gave hostages to secure a more faithful performance of their promises for the future. Moreover (to complete the good fortune of Raymond) on his return to Limerick he found envoys from Dermot Mac Carthy, prince or king of Desmond, who came to implore his assistance in behalf of their master, whose rebellious son had almost driven him out of that country. This suit being backed with liberal offers to Raymond and high pay to his soldiers, he gladly seized the occasion of acquiring two things which he equally coveted; more wealth and more fame. His arms restored Dermot; and he and his forces returned from this expedition enriched with the gifts they had received from that prince, and with store of plunder they had taken from the rebels. After such happy success it was not thought

BOOK IV.

A. D. 1174.

Brompton.
Chron. col.
1106, 1107.
Benedict.
Abbas.
Hoveden,
ad ann. 1175.
See it also in
the Appendix
to this Book.

thought adviseable to send him out of Ireland or deprive him of a command which it seemed that no other could so worthily take. The peace he had settled in Desmond was soon disturbed: for Mac Carthy's son, under colour of a reconciliation, having found means to get his father into his power, shut him up in a prison: but the old man, with equal craft, contrived to put the usurping prince to death. Ireland from that time was quiet till the end of the civil war in England and France, when Henry having leisure to attend to the settlement of his Irish dominions, was desirous to conclude a new treaty of agreement with Roderick king of Conaught, for which purpose that prince had sent over his chancellor, and the prelate before named, as his plenipotentiaries, who a little before Michaelmas, in the year eleven hundred and seventy-five, waited on Henry at Windsor, where a great council was held by extraordinary summons, for the solemn determination of this affair. The convention there ratified was to this effect. Henry granted to his liegeman Roderick, that he should be *king under him*, ready to serve him *as his vassal*; and that he should hold his own territories as well and as peaceably, as he had held them before the coming of Henry into Ireland. He was likewise to have under his rule and dominion all the rest of the island, and the inhabitants thereof (but with some exceptions which are afterwards specified in the treaty), and to exercise jurisdiction over them

all (kings and princes included), so as to oblige them to pay their tribute to the king of England through his hands, and to preserve to that monarch his other rights. They were likewise to hold in peace whatsoever they possessed at that time, so long as they remained faithful to the king of England, and paid him their tribute and what else he claimed by right, through the king of Conaught's hands; saving in all things the prerogative and the honour of both those kings. And in case that any of them should rebel against either, and refuse to pay their tribute or other duties in the manner before prescribed, or should depart from their fealty to the king of England, the king of Conaught was to judge them, and remove them from their governments or from their possessions. It was likewise agreed and declared, that, if Roderick's own strength should not be sufficient to do these things, the king of England's constable and his other servants and soldiers should assist him therein, upon his requisition, and so far as they should find needful. The tribute demanded of him, out of all his own territories and others in the island, was a hide, saleable for the merchant, from every tenth beast of all the cattle killed there: except, that in those districts which the king of England retained as his demesnes, or in those of his barons, he was not to intermeddle; namely in Dublin and all its appurtenances; in Meath and all its appurtenances; (comprehending therein whatsoever had been held by Hu Melachlin, or by any who had held that province

BOOK IV.
A. D. 1175.
Brompton, ut
suprà.

BOOK IV.

A. D. 1175.

Benedict.

Abbas, ut supra.

Hoveden, ut supra.

vince after him) and in Wexford and all the territory thereof, and in all the rest of Leinster; and in Waterford, with the country between that city and Dungarvan; this latter place, with all its appurtenances, included. And, if any of the Irish who had fled from the territories of the king's barons should desire to return thither, they might do it in peace, paying the tribute above-mentioned, as others did; or doing the ancient services which they used to do for their lands; as their lord should like best. But, if any of the Irish who were subjects of the king of Conaught should refuse to return to him, he might compel them to do it; after which they were quietly to remain in his land. Moreover the said king was empowered to take hostages from all those whom the king of England had committed to him, at his own and the king of England's choice; and he was to give the said hostages to the king of England, or others, at the king's choice. And all those from whom the securities were demanded were to perform certain annual services to the king of England by presents of Irish dogs and hawks. And they were not to detain any person whatsoever belonging to any land or territory of the prince, against his will and commandment.

Among the witnesses to this treaty was Lawrence archbishop of Dublin, who before the arrival of the king of Conaught's envoy had come over to England. From the tenor thereof it appears, that Henry thereby constituted

stituted Roderick O'Connor a kind of viceroy, BOOK IV.
under him, over the whole realm of Ireland, A. D. 1175.
except those parts which he held himself in
demesne, or had granted to his barons, namely;
Dublin, Wexford, and Waterford, with all
their appurtenances, and Leinster and Meath
with all theirs. In Meath was then included
the western province of that name as well as
the eastern. When the kingdom of Leinster
was granted by Henry to Strongbow, Dublin,
with some of the cantreds adjacent to that city,
was separated from it, and retained in demesne
by the king; for which reason it is mentioned
distinctly here. Wexford and Waterford, being
also in the hands of that monarch, are there-
fore excepted.

If the ability of reducing the whole king-
dom of Ireland to a perfect subjection had not
been wanting at this time, Henry would not
have chosen to make one of the Irish princes,
and (what was still worse) their late monarch,
the instrument of his sovereignty over that
nation (as he did by this treaty): for, surely,
it was not the proper way to reclaim them
from their barbarous customs, nor a security
on which he could firmly depend. But in
the present conjuncture he did not think it ad-
visable to withdraw himself from the care of
his other dominions; and, without making a
long abode in that island, he could not hope
to establish his authority there in so compleat
a manner, as to be able to model the govern-
ment

BOOK IV.
A. D. 1175.

ment of it on a regular, English plan. Two of the five Irish kingdoms (reckoning Munster according to the ancient division), and three principal cities, were, by this treaty, exempted from Roderick's jurisdiction : in the other, the inferior princes and chieftains of the Irish had reason to think the protection, which they were entitled to demand from Henry, as his vassals and liegemen, against any oppression on the part of the king of Conaught, a very sufficient compensation, both to them and their people, for so easy a tribute as they were bound to pay, or any other services required on their part. Yet the grants made of some portions of their country to foreigners were so grievous to the Irish, their national pride was so hurt by the loss of the ancient independence of Ireland, and the bonds of their allegiance to the king of England were now so loosely tied, that this was rather a temporary accommodation between him and them, than a durable settlement of his government in that island. His chief support there (except in the provinces possessed by the English) was the affection of the clergy ; to strengthen which he promoted a native Irishman, named Augustin, to the bishoprick of Waterford, and sent him to be consecrated by the archbishop of Cashel ; which act of prerogative over the church of Ireland was done in this council held at Windsor, the archbishops of Dublin and Tuam being present.

Benedict.
Abbas.

About the end of November in the year BOOK IV.
 eleven hundred and seventy-five, the king, A. D. 1175.
 who had returned to his palace at Winchester, Chron.
 went out from thence to meet the pope's le- Gervase,
 gate *à latere*, Cardinal Huguzon, whom he col. 1432.
 had sent for himself. The pretence for calling
 him over was to settle the dispute concerning
 the primacy between the archbishops of Can-
 terbury and York: but Gervase of Canter- Ibidem.
 bury tells us, "*that Henry, hating his queen*
for having instigated his sons to conspire
against him, earnestly sought a divorce, and,
to obtain it from the pope, invited over this
legate, and by caresses and presents attached
him to himself." I likewise find by a manu- Bibl. Cotton.
 script in the Cotton library, that in the year Claudius, B.
 eleven hundred and sixty-eight the barons of ii. f. 212. b.
 Poitou, who were then in rebellion against See it also in
 Henry, presented a paper to the cardinal legates the Appendix
 in France, the purport of which was to shew, to this Book.
 that Henry and Eleanor were third cousins
 of the half blood. Their view therein must
 have been, to procure, on this account, from
 the papal authority, another divorce from that
 princess; as she had been separated before from
 King Louis, her first husband, for being his
 fourth cousin of the whole blood. The do-
 minion of Henry over their country would
 thus have been rooted up: but the manuscript
 says, that no attention was given to them, on
 this point, by the legates. Henry himself may
 have now been willing to make use of this or

BOOK IV. any pretence to break the bonds of his marriage, which he could not but feel very grievous, after the atrocious conspiracy his queen had formed, in his family itself, for his ruin a conspiracy, which he had too much cause to believe had even struck at his life. One circumstance alone could naturally check his strong and reasonable desire of being separated from her, the bastardising of his children by such a divorce. But it has been mentioned before, that the law of England, at this time allowed the children of parents divorced from each other on account of near kindred to inherit as if born in lawful wedlock; and Henry might think that the reason and equity of this law would not only be applied to private inheritances, but also to that of the crown. He might also suppose, that his eldest son's coronation, and the feudal homage performed to him in consequence of that act, would secure his succession to the kingdom of England and all dependencies on that crown, by a kind of elective right; and that the investiture of the duchy of Aquitaine, given by Louis to Richard, would be likewise a sufficient security to the latter for the quiet possession of that feudal dominion. The same reasoning would hold good as to Anjou and Maine, with which his eldest son had been invested; and he might at his death, with the consent of the states bequeath to him Normandy, which a testamentary appointment, so ratified and confirmed had given to William *the Bastard*. As for

Geoffrey

See Vol. III.
p. 126. and
Glanville,
l. vi. c. 17.

Geoffry, his right to the dutchy of Bretagne arose wholly from his marriage with the heiress thereof, and therefore could not be affected by the nullity of the marriage made by his parents, if it should be declared void. The agreement of Eleanor to this separation, for the sake of delivering herself out of prison, and her consent to give up the dutchy of Aquitaine to her favourite son, Richard, reserving a proper appanage for her own support and maintenance, could hardly be doubted. These reasons, concurring with a strong inclination, might seem to Henry sufficient to remove the objection of his hurting his children by annulling his marriage; and, as Cardinal Huguzon was his friend and relation (for so he calls him in a letter to the pope), he might hope to prevail in his application to Rome for relief from the matrimonial yoke, which, in several instances, the authority of that see had taken off from princes, on less excusable motives. What passed in the negotiation (if there really was any negotiation about it) we are not told; nor indeed could the particulars be easily known to the chroniclers of those days. Unfortunately, at this period, we have not the same help from the private letters of persons entrusted with secrets, as we had in transactions relating to Becket, when that prelate was in exile. The public acts of the legate, in exercising his authority over the English church, are more fully related. Upon his first arrival the clergy complained heavily to him of their having

BOOK IV.

A. D. 1175.

Benedict.
Abbas.

been prosecuted in the king's courts for hunting in his forests, as a breach of the privileges claimed for them by Rome. But they gained from him no support. On the contrary, he authorised those prosecutions; doubtless, because he well knew that many canons of the church forbade them to hunt^a. Yet Gervase of Canterbury, and some of the other monks who wrote histories in that age, inveigh bitterly against him on this account.

Diceto, ad
ann. 1176.Gervase, col.
1433.

On the second of February in the year eleven hundred and seventy-six, the king held at Northampton a general assembly, or parliament, "*in which* (says Gervase) *he renewed and confirmed the assise of Clarendon, the execrable constitutions of which had caused the blessed Martyr St. Thomas to live in banishment seven years, and at last to be crowned with a glorious martyrdom.*" This did not well suit with the publick veneration he had lately paid to Becket; and we may reasonably presume that the legate availed himself of that inconsistency to remonstrate against the execution of those laws, thus renewed and confirmed. These remonstrances he might make with greater efficacy and force, if it be true that the king desired help from the pope (as Gervase of Canterbury affirms) to get his marriage dissolved: because such a favour could

^a V. Concil. Agat. A. D. 420. c. 25. 2 Concil. Mase. A. D. 568, Surius, Conc. t. iii. p. 40. Spelman, Concil. t. i. p. 237, 238. Gratian, Distinct. 34—86. Joh. Sarisb. Polic. l. i. c. 4. Petri Blesens. Epist. 56—61.

hardly

hardly be obtained from the church without some concessions to it; and this motive would operate much more strongly on Henry, to induce him to grant them, than any other whatsoever. There must certainly have been some powerful, latent reason, which, after so long a contention, could make him desist from executing his laws, especially at a time when his arms had been victorious over all his enemies, and his power was established more firmly than ever in the realm of England. For it appears from a letter which he sent to the pope by the hand of the legate, that *notwithstanding the violent opposition of the greatest and wisest men in his kingdom*, he had, at the earnest intercession of the legate, and out of his reverence and devotion towards the see of Rome, accorded, that, for the future, no ecclesiastick should be personally brought before any secular judge, for any crime or transgression, except an offence against the forest laws, or in the case of a lay fee, for which secular service was due to him (the king), or to any other lay lord.

Diceto Imag.

Hist. col.

593, 594.

See also Appendix to this Book.

This impunity to all crimes, but the trespasses above-mentioned, would have endangered the lives of the clergy themselves; to secure them from which share of peril with the laity, the king further promised, in his letter to the pope, that any person convicted, or making confession, before his justiciary, in the presence of the bishop or his official, of having willfully and maliciously murdered a clergyman, should,

BOOK IV. should, besides the usual punishment for the
 A. D. 1176. murder of a layman, suffer a forfeiture, for
 himself and for his heirs, of all his lands of
 inheritance for ever.

The king added a promise to exempt the clergy, in all causes, from being tried by duel, and not to retain in his hands vacant bishopricks or abbeys beyond the term of one year, *unless from urgent necessity, or some evident cause of delay, not falsely pretended.*

These last words in effect set the restraint very loose, as the *necessity* and the *cause* were to be judged of by him: but neither this, nor any other of the foregoing concessions, was enacted at this time by authority of parliament, or during any part of this king's reign; nor did he himself observe them, except in not compelling criminal churchmen to appear before a lay judge, unless in the cases reserved, and exempting them in all cases from the mode of trial by duel. The statutes of Clarendon concerning ecclesiastical matters subsisted unrepealed and confirmed, but were suspended in part by a temporary connivance of the executive power, which, though an unwarrantable act of prerogative, was better than an absolute and express repeal.

Before I particularize the laws, not relating to the church, which had been enacted at Clarendon and were confirmed at Northampton, it will be proper to finish the account of the legate's proceedings in England. After settling a dispute about a chapel at Gloucester, between

between the archbishops of Canterbury and York, he brought them both to refer their more important controversy, about the right of the latter to carry his cross erect in the province of the former, and other points of contention between their sees, to the judgment of the archbishop of Rouen and some other French prelates. He then visited all the metropolitan churches and principal abbeys of England; in the exercise of which power he is accused of extorting a great deal of money, which he carried out of the kingdom. This visitation being ended, he returned to the king, and with the concurrence of his advice and authority, summoned all the bishops, abbots, and priors of England, *to bear the mandates and precepts of the supreme pontiff* (says the abbot of Peterborough, a contemporary author). At the opening of this synod, which met on Midlent Sunday in a chapel at Westminster, a most extraordinary and most scandalous scene ensued. For, the legate being seated, an eager contention arose between the archbishops of Canterbury and York, for the place at his right hand; and, while they were disputing, the monks of Canterbury and all the attendants on the former rushed furiously on the latter, assaulted him, threw him down, and trampled him under their feet. He received from them many blows; his mitre was broken, and he was with difficulty delivered from their rage, half dead, by others of the council. The legate, seeing

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seeing this outrage, and supposing it to be done by the archbishop of Canterbury's order, or at his instigation, summoned that prelate to Rome, there to answer for having, by such a riot, in his presence, affronted and disgraced the embassador of the pope, and the pope himself. The archbishop of York also cited his adversary to the Roman tribunal, and with him the bishop of Ely, as personally concerned in this assault. The legate, after notifying his own resolution of bringing the affair before the pope, dissolved the assembly: so that we know not what were *the mandates and precepts of the supreme pontiff* which they had been summoned to hear. The archbishop of York, as soon as he was able to go out of the synod, went and complained to the king of the injuries he had suffered, which raised in that monarch a great passion of anger against the two offending prelates of Canterbury and Ely. The first of these very prudently applied to the legate in private, and with soothing words, well supported by the more prevalent force of gold, persuaded him to desist from his appeal to the pope, as he did himself from a counter-appeal he had made. He also solicited a reconciliation with the archbishop of York, which that prelate refused. Soon afterwards the legate, much disgusted at the scandal of which he had been a witness, departed into Normandy, where he exercised his authority in some acts not recorded by the writers

writers of those times, and then returned to Rome.

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Many reasons made it proper for the king to resent this flagrant breach of the peace, thus committed in the face of the whole English church, and of a cardinal legate. One was, that it partly arose from the hatred the monks of Canterbury bore to the archbishop of York for what he had done against Becket, notwithstanding his having been absolved by the pope from the spiritual censures, which had been ulminated against him on that account. For, as he went out of the synod, many of them exclaimed, "*Go, betrayer of St. Thomas: thy hands still smell of blood!*" But, the legate having now prevailed upon Henry not to punish any outrage, even of the most heinous kind, by the justice of the crown, if the offender was in holy orders, that prince could not judicially take any cognizance of this affair, and it was his desire to continue in friendship with the archbishop of Canterbury, whom he had found well affected in all respects to his service, and of great moderation in ecclesiastical matters. As soon, therefore, as the first emotions of anger were quieted in his mind, he used his utmost endeavours to make up this quarrel between the two contending primates, so contrary to the spirit of meekness and humility becoming their sacred function. For this purpose he called a great council at Winchester, and prevailed on them there to take an oath, that they would suspend for five years

years all enmity or wrath against each other. The bishop of Ely likewise swearing before the whole assembly, that he had not been guilty of laying violent hands on the archbishop of York, he and that prelate were made friends.

But, to return to the acts of the parliament at Northampton—It is a common opinion that one of those acts was the first institution of *itinerant justices* in the kingdom of England. And indeed the first mention of them in our ancient chronicles is under this year. But Madox has shewn by far superior authority, the Record of the Exchequer, that there had been itinerant justices, to hear and determine criminal and civil pleas, in the eighteenth year of the reign of Henry the First, and likewise justice in eyre for the pleas of the forest. It also appears by the same unquestionable evidence, that in the twelfth, and from thence to the seventeenth of King Henry the Second, justices of both sorts had been constantly sent into the several counties. As this point is important to the history of our law, I shall give these records in the Appendix to this book. But must further observe here, that, as well in the names of the justices itinerant of the years eleven hundred and seventy-six and eleven hundred and seventy-nine, as in the counties assigned to them, some differences occur between the Exchequer rolls and the chronicles of Benedictine abbot of Peterborough, and Hoveden, who copied from him. We therefore cannot rely

Benedict.
Abbas.
Hoveden.

Hist. of the
Exchequer,
c. iii. p. 100,
101, 102.
Ibidem, p. 98,
99. V. Appendix.

See Madox,
Hist. of the
Exchequer,
p. 86, 87, 88.

on the accounts in those writers concerning this matter, as accurate or authentick. Nevertheless it is probable from what they say, that a new division of the kingdom into six circuits may have been made in this parliament of the twenty-second year of Henry the Second, and another into four in the twenty-ninth of that king.

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There is reason to believe that the first appointment of itinerant judges in England was consequential to a similar institution in France, which Louis le Gros introduced, and which Henry the first, from seeing the utility of it there, brought into this kingdom; as many other customs, after the Normans came hither, were derived to us from the French, and many of ours reciprocally imparted to the Normans and other subjects of our kings in France. But, in the reign of King Stephen, perpetually agitated with intestine commotions, this seems to have been dropt; and the glory of fixing in the English constitution so useful an improvement belongs to Henry the second, by whom it was revived and regularly settled.

Lord Chief Justice Hale, whom I cite as a great authority on this subject, in displaying the advantages of this institution, observes,

History of the
Common
Law of Eng-
land, c. vii.

“that it was a remedy to the evils arising
“from the administration of the common
“justice of the kingdom being (except in
“greater cases) wholly dispensed in the county
“courts, hundred courts, and courts baron;
“which must have bred great inconvenience,

“uncer-

BOOK IV. “uncertainty, and variety in the laws, espe-
 A. D. 1176. “cially in the several counties. For, the de-
 “cision or judgement being made by divers
 “courts, and several independent judges who
 “had no common interest among them, in
 “their several judicatories, thereby, in process
 “of time, every several county would have
 “several laws, customs, rules, and forms of
 “proceeding.”

His Lordship likewise takes notice, “that
 “in these several courts all the business of
 “any moment was carried by parties and
 “factions. For, the freeholders being gene-
 “rally the judges, not only of the fact, but of
 “the law, every man that had a suit there sped
 “according as he could make parties; and men
 “of great power and interest in the county
 “did easily overbear others in their own causes,
 “or in such wherein they were interested,
 “either by relation of kindred, tenure, service,
 “dependence, or application. And, although
 “in cases of false judgement the law, even
 “as then used, provided a remedy by writ of
 “false judgement before the king or his chief
 “justice, and in case the judgement was found
 “to be such in the county court, all the mem-
 “bers were considerably amerced (which also
 “continued long after in use with some seve-
 “rity), yet this proved but an ineffectual
 “remedy for these mischiefs. Therefore the
 “king took another and a more effectual course;
 “for in the twenty-second year of his reign,
 “by the advice of his parliament held at
 “North-

Northampton, he instituted justices itinerant, BOOK IV.
 "rant," &c.

A. D. 1176.

To these observations of this learned judge will add, that there was another reason for, of a political nature, namely, to obviate the mischiefs arising to the crown, and to the whole commonwealth, from the hereditary jurisdictions introduced into England by the feudal system there established under the first Norman kings. The dispensing of justice is the highest and noblest prerogative of a monarch; nor does any thing more disturb the good order of a kingdom, than to have that power independently resident in subjects, and exercised in their names. It was some check to this evil, that from the other inferior courts appeals lay to the county court, where the sheriff (an officer of the crown) presided; and from thence to the king's court. But, to have the royal justice thus carried into all the several counties, by itinerant judges, whose commissions were immediately derived from the crown, and whose jurisdiction was exercised in the name of the king, and armed with all his power, was a very great ease and benefit to the people, as it saved them from the trouble of prosecuting appeals in ordinary suits, and was much less expensive.

The above-mentioned records of the Exchequer demonstrate, that, during a great part of King Henry the Second's reign, pleas were held in the counties, from year to year, by his judges. But it appears by a passage

BOOK IV. in Matthew of Westminster (called Florilegus), that, some time before the year twelve hundred and sixty-one, the itinerant justices were restrained from going their circuits oftener than once in seven years. This was a blameable change, and probably was occasioned by the jealousy of the barons, desirous to keep the administration of justice in their own hands. It was happy for the commons when annual circuits, agreeably to the practice in the reign of this king, were afterwards re-established.

Benedict.
Abbas.
Hoveden.

The itinerant judges, appointed in the year eleven hundred and seventy-six, were directed and empowered, by authority of parliament to do in their circuits all kinds of right and justice which belonged to the king's regal office, by commission from him, or (in the case of his absence out of the kingdom) from his vicegerents, where the property in question was not more than half a knight's fee; unless the controversy were of such importance that it could not be determined but in the king's presence, or so difficult that the judge doubted about it, and desired to refer it to the king, or to those who held his place. They were also commanded to make inquisition concerning robbers and other malefactors in the counties through which they went, and to take special care of the profits of the crown in its landed estate and feudal rights of various sorts, escheats, wardships, and the like: to enquire into castle guards, and send the king information from what persons they were due

in what places, and to what extent; to see what the castles which the parliament had advised the king to demolish were compleatly destroyed, under pain of being prosecuted themselves in his court: to enquire what persons had gone out of the realm, that, if they did not return by a day appointed, in order to take their trial in the king's court, they might be outlawed: to receive, within a certain limited term, from all who would stay in the kingdom, of every rank or condition (not excepting even those who held by servile tenures), oaths of fealty to the king, which if any man refused, they were to cause him to be apprehended as the king's enemy; and, moreover, to oblige all persons from whom liege homage was owing, and who had not yet done it, to do it to the king within a certain time, which the justices themselves were to fix.

The greater part of these injunctions were consequences of the late intestine war. But, some statutes renewed in this parliament at Northampton, and which the itinerant justices were sworn to observe, being general regulations in judicial proceedings, or laws by which the civil property, or the criminal justice of the realm, was materially affected, it will be necessary to explain the nature of them here, with some observations thereupon.

By one of these it was declared, that, on the death of a free tenant, his heirs should remain in such seisin, or possession, of his fee, as he had at the day of his decease; and should

Benedict.

Abbas.

Hoveden.

See also the

Appendix to

this Book.

have his chattels, in order to satisfy the legacies devised by his will: and that afterwards they should repair to their lord, and perform to him all they owed, with regard to the relief and other feudal dues to which he was entitled. If the heir was a minor, his lord was required to receive his homage, and take the custody of him during his nonage. If he had more lords than one, they all were required to receive his homage, and he was to perform to them all his feudal duties. The wife of the defunct was also to have her dower and such part of his chattels as belonged to her. And, if the lord of the fee should die without heirs, the king's justices were to make a cognation, or inquest, by twelve lawful men, to what possession he had at the day of his decease, and, according to the verdict, restore it to his heirs. It was added, that if any one should act contrary to this statute, and be attainted thereof, he should be at the king's mercy (that is, he should be fined).

This was a very important act of parliament. It secured to the heirs of every free tenant the chattels of the defunct, for the satisfaction of his bequests, against any unjust or vexatious detainer thereof by the lord of the fee, and to the widow her dower and her part of his chattels. At the same time it secured to the feudal lord, or lords, all the fruits of their tenure, not as given by the statute, but as recognised and confirmed, for part

particularly, and some by general words. The method of enquiry, in case that possession of the fee should be denied to the tenant, was not by duel or any superstitious kind of trial, but by the verdict of a jury, upon which the king's justices were immediately to restore the inheritance to the heirs.

One of these statutes, relating to criminal justice, says, that if any one apprehended for murder, or theft, or robbery, or forgery, or any other felony, confesses his offence before the chief magistrate of the hundred or borough and any lawful men, or if he has made a like confession without being apprehended, he shall not be suffered to deny it afterwards before the king's justices.

By another, a robber, when taken, was to be committed to the custody of the sheriff, or, in the absence of the sheriff, to the nearest constable, who was to keep him in his custody till he could deliver him to the sheriff.

This parliament did also confirm a law, which Vol. III. has been mentioned in a former part of this P. 197. work, that no stranger should be lodged for more than one night, in any burgh or town, without being put under pledge.

But the most extraordinary statute here enacted was this; that if any one was arraigned before the king's justices of murder, or theft, or robbery, or receiving any such malefactors, or of forgery, or of malicious burning of houses, by the oaths of twelve knights of the hundred, or (when so many knights were not present)

present) by the oaths of twelve free and lawful men, or by the oaths of four men of every town of the hundred, he was to undergo the trial of the water ordeal, and, if convicted thereby, to lose one of his feet, according to the statute made at Clarendon, to which, for the greater rigour of justice, this parliament added, that he should also lose one hand, and abjure the kingdom, and go out of it within forty days. If acquitted by the ordeal, he was to stay in the kingdom, finding surety unless he had been arraigned of murder, or any heinous felony, by the community of the county and of the lawful knights of his country; in which case, though the ordeal had declared him innocent, he was nevertheless to quit the realm within forty days, and take with him his chattels (saving the rights of his lords), and be at the mercy of the king whether he should ever return or not. This statute was to take place from the time when the law of Clarendon here confirmed was enacted until the present time, *and as much longer as should please the king*, in the cases of murder, treason, and malicious burning, and in all the cases above-mentioned, except in small thefts and robberies committed in the time of war, such as stealing horses, or oxen, or things of smaller value.

In considering this law one is struck with the injustice of sending men to a trial, by which if condemned they were to be punished with amputation of limbs and perpetual banishment.

ishment; and even if acquitted, on a charge of any heinous felony, to be banished for a time, or, if the king pleased, for life. Supposing that some doubt concerning the proof of the innocence of the party, acquitted in this manner, was the cause of this proceeding, so contrary to the ordinary course of law, such doubt should have been equally applied to invalidate the proof of guilt by this trial.

We are told, that William Rufus, upon being informed, that about fifty Englishmen of good quality and fortune, whom he had caused to be tried for killing his deer by the ordeal of hot iron applied to their hands, had all come off unburnt, and consequently acquitted, declared, he would try them again, by the judgement of his court, and not by this pretended judgement of God, *which was made favourable or unfavourable at any man's pleasure*. The monk, who relates this, represents it as shewing the impiety of the king: but it only shews that he thought, this superstitious method of trying a criminal accusation was fraudulently managed; and so, doubtless, it was; or no man could ever have been acquitted by it. Henry the Second had, perhaps, the same opinion about it, and therefore would not allow such an acquittal to have its full effect: but, if it could not avail to clear a culprit, it ought not to have been effectual to condemn him; as it was by this law, which favours strongly of the barbarism still remaining in those times.

Eadmer, Hist.
Nov. p. 48.

BOOK IV.

V. Wilkins,
Leg. Inæ.

V. Pelloutier,
Histoire des
Celts.

Ex textu
Roffensi.
Spelm. Gloss.
ORDALIUM.

V. Selden,
Not. ad Ead-
mcr. p. 204.

Ordeals by water and fire had been always in use among the English. Mention is made of them in one of the most ancient codes of the Anglo-Saxon laws, the statutes of King Ina: and the same modes of trial were customary, long before, in many pagan nations particularly among the Celtic tribes, who, in their early migrations out of the East, brought with them these superstitions, and spread them over the greatest part of Europe. The adopting of them into the Christian religion is an instance among many, how strangely the practice of accommodating that faith to superstitions the most foreign and most abhorrent from it prevailed in some ages.

Sir H. Spelman has given us, from the ancient book of Rochester, a form of prayer and exorcism, used in this kingdom, to endow the water or hot iron with the miraculous power of discovering guilt or innocence in such trials; by which it appears (as also by the statute of King Ina above-mentioned) that the Christian clergy interfered (as the heathen priesthood had done) in this pretended supernatural administration of justice; desiring, doubtless, to gain thereby to themselves a greater reverence from the people. Yet the Roman pontiff, and the canons of several councils, justly condemned and forbade it, as repugnant to the precept, *Thou shalt not tempt the Lord thy God*. Their authority by degrees so far prevailed, that King Henry the Third, by an order of council, in the third year

year of his reign, commanded his judges, *forasmuch as the judgement by fire and water was prohibited by the church of Rome, and it had not been determined, when they set out on their circuits, how persons arraigned of robbery, murder, or other such crimes, should be tried, to keep them in prison under safe custody, but so as not to endanger their lives or limbs; and to cause persons charged with less heinous offences, yet such as would have been triable by fire or water if it had not been forbidden, to abjure the kingdom.* This was better than banishing them (as was done by the statute of Henry the Second above-mentioned) after the ordeal had cleared them: and from this time forwards such trials, without any express law having been made to forbid them (at least, so far as we know), were abolished in England by disuse.

But another species of appeal to what in those days was called the *judgement of God*, continued here many centuries after the ordeal by fire or water; I mean the trial by *duel*. This also was a part of the ancient jurisprudence of many barbarous heathen nations, which their conversion to Christianity did not always correct, as it naturally ought to have done. Luitprandus, a king of the Lombards in Italy, says in one of his laws quoted by Sir H. Spelman, “ We are uncertain about the *judgement of God*, and have heard of many persons who have unjustly lost their causes in trials by *battle*. But we are not able to
“ abrogate

Gloss. ORDEAL
LIUM.

BOOK IV. “abrogate this *impious law* of the Lombards, which the custom of our nation has established.” The same complaint might as justly have been made by the kings of many other countries. Several popes condemned this as much as the ordeals by fire and water : but the martial spirit of the people among whom it was practised prevailed with great obstinacy over their prohibitions ; and a method of judicature obtained a fixed establishment through most parts of Europe, not only in criminal, but also in civil causes, which did the very reverse of what all legislation, and all institutions of orderly government, were intended to do, by giving the decision of right and the punishment of offences, not to justice, but to force. The first mention made of it in the laws of this kingdom is in one of William the First, which grants full liberty to any Englishman to appeal any Frenchman, by duel, of theft, homicide, or any other matter for which a trial by duel, or by the fire ordeal, ought to be granted. And, if the English appellant should chuse to proceed by the latter, the Frenchman was not bound to that method of proof, but was to clear himself by the oaths of witnesses according to the law of Normandy. If a Frenchman appealed an Englishman of the same crimes, the Englishman was to have the option of defending himself either by combat or by the fire ordeal. And if either party was infirm, and could not or would not maintain his cause by combat, he might procure for himself

See Appendix,
from Brompton's Chron.
and Selden's
Notes to Eadmer, p. 193.

himself a legal champion. If the French appellant was vanquished, he was to pay to the king sixty shillings: and if the Englishman accused would not defend himself by combat or by witnesses, he was to clear himself by the judgement of God (which here means the ordeal).

There are other statutes of this king to much the same effect, which the reader will find in the Appendix to this book. William of Malmſbury tells us, in his history of the reign of William the Second, that William de Hou, being accused of high treason before that king, challenged the accuser to a duel, and having been vanquished therein was punished as guilty by the loss of both his eyes, and by castration. Another chronicle adds, that the last of these penalties was inflicted upon him at the desire of a nobleman, who charged him with having debauched his wife. Of a duel fought in the reign of King Henry the Second, by Henry de Essex and Robert de Montfort, an account has already been given. We learn from Glanville, that, when he was grand justiciary to that prince, the proceedings in the king's court, and before his justices in their circuits, on criminal matters, were these:

Glanville,
l. xiv. c. 1.

If any one was charged with high treason by common fame only, he was either to find proper bail, or be imprisoned: then the truth of the fact was to be enquired into, before the king's justices, by various inquisitions and interrogations, and by probable or circumstantial

stantial evidence. If the conjectures were doubtful, some making for and some against the accused, he was to be tried by the ordeal, or wholly acquitted, at the discretion of the court. But, if an accuser appeared, the accused was to find sufficient bail, or be imprisoned; and the accuser (if he could) was also to find sureties, that he would prosecute his charge; or (if he could not) he was then to be bound to it by his oath alone, as in all other cases of felony, wherein it was thought proper not to insist on further security than the oath of the accuser, for fear of deterring others, by too much strictness, from such accusations. When the suit was instituted, a day was assigned to the parties; on which, the accuser declaring, that he had seen, or knew, by some other means proved in court, that the defendant had contrived or done something against the life of the king, or to seduce the realm, or the army, from its allegiance, or had consented to, or counselled, or abetted, such treason, and was ready to make good his charge; the defendant, on the contrary, denying it with all the legal forms; then the controversy was to be determined by a combat between them. The duel being once pledged in the manner above-mentioned, no change could be made by either of the parties in the matter of the charge, but they were to adhere to it in all points, as declared in the court, without addition or diminution, under the penalty to the party who should in any
wise

wife recede from it of being considered as vanquished, and subject to the legal consequences thereof. Nor could they be reconciled to each other without leave of the king, or of his justiciary.

If the appellant was vanquished, he was to pay to the king a mulct of sixty shillings, to be branded with the infamous name of recreant, and to be disabled from ever being admitted again to bear testimony by duel in any court against any other man. But if the defendant was vanquished, he was to be punished, as those who were convicted by the ordeal, with forfeiture of all his lands and goods from him and his heirs for ever, and either with death, or loss of members, at the will of the king, who in this and in all pleas concerning felonies might either wholly pardon or inflict the lesser punishment, as he thought good. To this kind of accusation every freeman of full age, and even a peasant in villenage of the lowest degree was admitted: but no woman could be so in any plea of felony, except in an appeal on the murder of her husband, to which she was an eye witness, or upon a rape or other injury against her own person.

L. ii. p. 15.

L. xiv.

P. 113, 114.

See also, l. i.

c. 2. and

l. xiv. p. 117.

L. xiv. c. 1.

A man accused of high treason, or any felony, if above sixty years old, or if maimed by a broken bone or a wound which had taken off or deeply indented some part of the crown of his head, might decline a duel and be tried by the ordeal of hot iron, if he was a free-

BOOK IV. a freeman, or by that of water, if a peasant. As this distinction is not made in the above-mentioned statute of Clarendon and Northampton, and we find no mention there of any trial by duel, it may be presumed that the king, who had power to continue or abrogate that law, had abrogated it before Glanville's treatise was written. The reason why such a wound upon the crown of the head, as is described in the passage I have quoted from thence, exempted from a duel, may probably have been that it disabled the party from putting on a helmet, or from bearing so well as his adversary might do a blow received upon it. But, if a miraculous interposition of the Deity was supposed, neither this, nor a broken bone, nor the weakness of old age, ought to have been an objection against bringing any man accused of a crime to this trial; and if human force could be of any avail, the natural event of the combat could not afford any proof of innocence or of guilt. I would also observe, that the danger to the party accusing must have often prevented prosecutions for treason and other heinous crimes. Homicide, burning of houses, robbery, rape, forgery, false coining, and other frauds of the most criminal nature, are mentioned by Glanville as triable in the manner and under the regulations above described. Among these offences he reckons the fraudulent concealment of treasure trove; but takes notice that common fame was not a sufficient ground to ex-

L. xiv.

L. xiv. c. 1.

pose a man to the ordeal upon a charge of BOOK IV.
his nature, unless it was proved against him,
or he had confessed in court. that he had found
in the place where the treasure was said to
have been discovered by him, and had taken
away from thence, some kind of metal; on
which presumption he was bound to purge
himself by the ordeal, that he had found and
taken away no more.

A distinction is made by Glanville between L. xiv. c. 4.
two kinds of homicide, one called murder,
which according to his definition is secretly
perpetrated, none seeing or knowing of it,
except the murderer and his accomplices, with
no hue and cry following immediately there-
upon; and another, which he calls simple
homicide, or manslaughter. With regard to
the first of these, no accuser was admitted if
not related in blood to the person murdered,
and the nearest relation excluded any other
more distant. With regard to the second,
it sufficed that the accuser was some way re-
lated to the slain, either by consanguinity,
or by homage, or by feudal dominion, and
that he was an eye witness of the fact. A
person accused of manslaughter, who was fol-
lowed by a hue and cry, and taken in his
flight, upon proof thereof in court by the oaths
of his country, was sometimes compelled to
clear himself by the ordeal: and one accused
by a woman of the death of her husband, was
either to appeal in that manner to the judge-
ment

BOOK IV. ment of God, or sustain her proof against him, which, I presume, was by oath.

L. xiv. c. 6. The same election was given in the trial of a rape: but the plaintiff in that case was presently after the commission of the crime to go to the next town, and make known the wrong done her to persons there of good credit, and shew them her cloaths torn, and the effusion of blood, if there was any; and then do the same to the chief magistrate of the hundred; after which, on her complaint, trial was to be ordered with the forms above-mentioned.

Glanville adds, that a man convicted of rape could not escape the punishment due to his crime by being willing to marry the woman he had ravished: for thus it would frequently happen, that men of servile condition by means of one pollution, might contaminate ladies of the most noble birth; or noblemen might be defiled, and their illustrious families disgraced, by matches with mean women. But it was held, that, before the judgement past, a woman accusing and a man accused of a rape might be reconciled to each other by the means of a marriage, with the leave of the king, *and with the consent of the parents.*

L. xiv. c. 7. In cases of forgery, Glanville says, a difference was made between forging a private or a royal charter; one convicted of the latter being punishable as for treason (that is, with death), but the punishment for the former being

being only loss of members, as in other lesser frauds; yet always subject to the will and pleasure of the king. He also remarks, that in all cases of felony the accused might be bailed, except in homicide, where, for the greater terror, it was otherwise decreed by law. Yet even in that case he might be bailed by the special grace of the king.

William the Conqueror (as appears by a charter of his statutes) forbade the putting to death any person for any crime whatsoever; but ordained that the eyes of the convicted criminal should be plucked out, and the feet or hands cut off, or that he should be castrated, according to the nature and degree of his offence: for which the reason is given in the statute itself, *viz. that his mutilated trunk might remain a living proof of his guilt.*

This charter has no date: but either this statute was posterior to the death of Earl Waltheoff, who was beheaded for high treason in the year 1075, or some subsequent statute had given the king a power to make the punishment for that crime either loss of life or loss of members, at his will and discretion. William Rufus unquestionably had by law such a power: for William de Aldney, an accomplice of William de Hou, who (as I have said before) was punished in his members for having conspired against that prince, suffered death for that treason.

Henry the First made a law, that every person who was caught in stealing or robbing

Spelman, Codex Leg. Veter. Statutor. H. I.

BOOK IV. should be hanged. At the same time he
 Wilkins, punished coiners by the loss of their eyes and
 P. 304, 305. castration.

It is said, that in the latter part of his reign his love of money inclined him rather to punish offenders by amercements and mulcts, than by any corporal pains. During the Saxon times this had been the general practice, which first arose from a prudent desire in the government to stop by such compositions to the party offended or to his family and kindred, that dangerous right which the customs of ancient Germany and of other barbarous nations, had given to particulars, a right to revenge their wrong themselves by force of arms, and to carry on deadly feuds from one generation to another. But, as part of the *weregeld*, or composition for crimes, was paid to the king, avarice continued in a more civilized state of the kingdom what necessity had established in the rude beginnings of it, when the Anglo-Saxon laws were little better in most points than the customs of savages committed to writing. Yet under some of their kings it appears that certain crimes were capitally punished. By the laws of Athelstan, a man who confessed himself guilty of treason against his lord, or who was convicted thereof by the proof of a triple ordeal, was to be put to death; and the same penalty was assigned to homicide, if so manifest that it could not be denied. In the collection of laws, made under the reign of the same king, and entitled *Judicia Civitatis Londoniæ*.

P. 57.
 Leg. Æthel-
 stani, 4.

R. 65—70.

donia, manifest theft, if what was stolen exceeded the value of twelve Saxon pennies, and the voluntary concealment of a known thief, and the standing by him or defending him by force of arms, are declared to be offences punishable with death. Where the fact was more doubtful, the person suspected was to be tried by the ordeal, and, if convicted, was to lose his life, unless his relations, or his lord, would redeem him by paying the value of his life, and compensating the full price of what he had stolen, and would also become sureties for his future good behaviour. And, if he afterwards thieved, his relations were to deliver him up to the magistrate, and he was to be put to death. By one law of this king an undeniable theft, above the value of twelve pence, had been declared capital, if the thief was more than twelve years old; but he afterwards, out of pity (as he says in another statute), changed the age to fifteen. A statute of Edgar declares, that no publick or open robber, nor any one taken in a manifest act of treason against his lord, was to hope for his life at any price. In the constitutions of Æthelred it is said, that, by the law of the Northern English, whosoever killed a man within the walls of a church was to be put to death, and whosoever wounded one within those walls was to lose his hand. By other laws of that king, if any one fought or robbed in a royal city, or in the neighbourhood thereof, he was to lose his life, unless the king would allow

Wilkins,
p. 65.

Ibidem, p. 78.
Leg. Eadgari,
7

P. 111.

P. 110.

BOOK IV. him to redeem it; and, if any one plotted against the life of the king, he thereby forfeited his own; but, if the fact was not proved, he might clear himself of the charge by paying the price of the king's head, (for even *that*, in the laws of the Anglo-Saxons, was rated) or by a triple ordeal.

Wilkins,
p. 109.

There is also a remarkable statute of this king, with relation to the military discipline of the kingdom, which says, that if any man returned from any service to which the king went in person, without his leave, he should lose his life and all his goods; but, where the king was not present, such desertion was to be punished only by a mulct of one hundred and twenty shillings.

See Preface to
Fortescue de
Laudibus
L. Angl.
See also Carte.

Some writers suppose, that the Saxons distinguished as we do between manslaughter and murder; but of this I find no clear proof in any of their laws. It only appears, from those before recited, that in all cases of blood, and other offences there mentioned, they made a great difference between manifest or acknowledged guilt, and what was so far uncertain as to require a trial; which seems to imply some doubt in the legislature of the methods of proof then in use.

Leg. Cnuti,
61.

A statute of Canute the Dane, when king of England, declares, that housebreaking, and burning of houses, and open robbery, and the publick killing of a man, and treason against one's lord, are *inexpiable* crimes, according to human

human laws: that is, such for which no amercements could be taken.

In this opinion the Norman kings of England concurred with their Danish predecessors, and carried their rigour yet further. But amercements were still taken for many lesser offences, of which I will give some instances in the reign of King Henry the Second, that are curious and descriptive of the law and state of those times.

Mauger le Clerc was amerced a hundred shillings for having caused one man to fight two duels in one day; and several others, who were with him in his court, were likewise amerced in proportion to their means.

Madox, Hist. of the Exchequer, c. xiv.

The county of Somerset was amerced four pounds wanting a penny for having ordered a duel in the Hundred Court which ought to have been in the County Court.

William de Friston was amerced ten marks for having taken cognizance in his court of a robbery, and adjudged a duel thereupon. Ivo the husband of Emma was amerced sixty shillings for having withdrawn from a duel on the day when he was to fight. Philip son of Wiard and five more were amerced three marks and a half for having suffered a man, in a trial by the fire-ordeal, to bear the iron twice with only one heating.

The town of Preston was amerced five marks, for having put a man to the water-ordeal without warrant; and Roger de Chaurea half a mark, for having been concerned in a

Madox, ibidem.

like trial without view of the king's serjeant. The town of Malden was amerced three marks, and the mayor, or baily, five, for having hanged a robber without such view. Stephen de Mereflet was amerced two marks, for a foolish answer in court (*pro stulto reponso*). Mauger de St. Albin was amerced half a mark for having seized a wreck without warrant from the justiciary. William, son of Waldeff, was amerced five marks for refusing to do the work he owed to the king in Banburg castle. Avelina de Ria was amerced two hundred pounds twelve shillings for having caused her son to be knighted while he was the king's ward. (This was because knighthood took him out of wardship: and the greatness of the amercement shews, that, where the king was concerned, such a fraud was esteemed a great offence.)

The city of Worcester was amerced five marks, and the manor of Wikebout two, for a default of proving *engleschery*, when a murder had been committed. It will be necessary to explain what *engleschery* meant, being a remarkable circumstance in our ancient law. To prevent the frequent murders of the Danes by the English, the barons of England were sureties to Canute the Great, upon his sending his Danish army back to Denmark, that, when any person was murdered, he should be supposed to be a Dane if he was not proved to be an Englishman by his parents or kindred; and, in default of such proof, if the murderer

was

was unknown, or had made his escape, the township in which the man was slain was to be amerced for it sixty-six marks to the king; or if, by reason of the poverty of the township, that sum could not be raised from thence, it was to be paid by the hundred. This agreement was carried into a law; which, when the Normans had got possession of England, they applied to themselves and all the other foreigners who had come over with them, under the general name of French: but, by the record here recited, it evidently appears, that ameracements for default of proving *Engleschery* were not near so high in the times of which I write as under King Canute. Towns and hundreds were amerced for murders or man-slaughters committed therein, notwithstanding that the slain was proved to be English; of which numberless instances occur in the Rolls, with great differences in the sums. From such general ameracements the lands of the royal demesne, and those holden by the queen, and ecclesiastical fees, and lands in frank almoigne, within the precincts on which any mulct was levied, were exempted. The like freedom was granted by charter from the king to several barons and lords of seigneuries; and so was the privilege of having to their own use and profit the ameracements incurred within their lordships.

Madox, c. xiv.
sect. 6.

Ibidem,
P. 374.

A very severe law was made by King Edgar against calumniators, condemning them to have their tongues cut out, or redeem them

Wilkins, Leg.
Eadgari, 4.

BOOK IV. by paying the value of their lives; (that is, the compensation at which their lives were rated in the written laws of those days.) But the *falsehood* of the report was to be proved by the plaintiff. And this was confirmed by Leg. Cnuti, King Canute. There is also a statute of Al-
 15. Leg. Ælfredi, fred, which assigns the same punishment to
 28. the inventor of a public false report (*publicum mendacium*): but whether by this we are to understand every kind of defamation publicly spread, or *false news* to the prejudice of the government or state, I am not quite certain. From the account that is given in Glanville's book of the criminal law in his times, it does not appear that these statutes were then in force.

Madox,
 c. xiv.

It has been mentioned in a former part of this work, that a principal branch of the king's incidental revenue arose from mulcts for the breach of forest laws. How high these sometimes were, even in the reigns of good princes, the following instances attest. In the twelfth year of King Henry the Second the bishop of Salisbury was amerced seventy-five pounds seven shillings for taking a *chevereuil* (or roebuck); and in the twenty-second of that king Adam de Brus paid a hundred for a similar offence in a forest. If we consider the value of money in those days, these mulcts will appear very grievous: but it must be likewise considered, that Henry took them in lieu of the lives or the members, which the laws of his predecessors, the three first Norman monarchs,

narchs, had declared to be forfeited by trespasses of that nature. And here I would observe, that a charter of the statutes of King Canute the Great, relating to forests, affirms, that hunting in them had been reckoned among the greater crimes by the old English customs (*ab antiquo*): and by the constitutions there published the killing of a stag was punished in a freeman by the loss of his liberty, and in a slave by death. But bishops, abbots, and the king's barons, (or those who held the same rank under the Danish kings of England as the barons under the Norman) if guilty of killing a stag, which these statutes denominate *a royal wild beast*, were to be punished at the king's discretion. For destroying his other game very heavy amercements were laid on the inferior orders of freemen; but liberty was given to the spiritual and temporal nobles to kill any game, except the stag. This privilege was denied by the Norman forest laws, more severe than the former; nor did Henry the Second restore it to the bishops or temporal lords, but only remitted to all offenders in the forest the corporal penalties which those laws had inflicted.

V. Spelman,
Gloss. Fo-
RESTA.

Before I go from the subject of legal proceedings established in those times, it will be proper to mention, that, even in some civil suits, the trial by duel was used under certain regulations; namely, in pleas concerning freeholds of hereditary land by writs of right, or concerning the warranty of such freeholds,
and

and others stated by Glanville, which it will not be necessary to enlarge upon here, except in some circumstances which appear to deserve more peculiar attention.

Glanville,
l. ii. c. 2.

In all such trials it was a general rule, that the demandant could not prosecute his suit in his own person, but was to do it by a champion who could be a proper witness of the fact in dispute, from what he had heard, or had seen; whereas the defendant was permitted to chuse whether he would maintain his right himself or by another fit person. In making his claim the demandant was obliged to declare, that he was ready to prove it by his freeman, then present; or, in case that any ill should happen to him, by such others as he then should name in court. After the duel was pledged the champion could not be changed, unless he who had undertaken the combat should die a natural death before the suit was concluded in which case it was lawful to have recourse to the others who had been named in court or even, if none had been so named, to find another champion, provided he was one who could be a proper witness of the fact to be tried: but, if the death of the first had been caused by his own fault, no other could be legally substituted to him, and the cause which he should have maintained was lost. The champion on either side might produce in court his own legitimate son, to fight in his stead but not any other person. In case of the death of such champion pending the cause, the defendant lost his seisin, where the question was about

out land, but not his suit, unless the champion had died by his own fault. If either party complained that his adversary's champion was *ired*, and offered to prove it himself by combat against him, or by another who had seen the hire taken, the principal duel was stopt till his had been fought; and, if the champion thus accused was overcome, the demandant lost his cause, and the champion was punished, not killed in the duel, by the same penalties that have been before described, as inflicted on the vanquished and recreant champion of an appellant, or accuser, in a criminal prosecution.

The right to a freehold could not be tried by duel, unless the demandant swore, that his father or grandfather had been seised of it in demesne, as of fee, in the time of King Henry the First, or after the coronation of King Henry the Second; and had received profits from it to the value of five shillings, at least, in corn and other produce. It is observable, that, not long before this time, a similar regulation had been established in France of the value of land, the right to which might be tried by the issue of a duel. The passing over Stephen's reign in the oath above-mentioned was occasioned, I presume, by its being supposed, that no possession acquired during the lawless disorders and civil wars of that reign could give any valid title, if it had not been confirmed by the succeeding prince. On the demand of a freehold made agreeably to

the form before recited, the demandant's champion was admitted to maintain his cause though he had not himself any personal knowledge of the fact in question, provided he could swear, that his father, when dying had enjoined him, on his duty, if ever he should hear of a law suit concerning that land to attest what his father had seen or heard and prove it by combat: whereas in all other cases it was required that the champion should be able to swear upon his own direct knowledge; as (for example) in trying the right of advowsons, which was to be proved by the evidence of one or more legal witnesses offering to attest by combat, that he or they had seen or heard the demandant present a parson to the living during the period prescribed. In writs of novel disseisin, which were triable also by combat, the limitation of time was after the king's last voyage to Normandy.

A duel might take place between a lord and his tenant concerning services not confessed to be due by the latter, if the former could bring one of his peers to give testimony, and prove it by combat, that he had seen the tenant or his ancestors, perform those services to the lord, or to his ancestors, for that fief. And if the tenant was vanquished in such a controversy, he forfeited his right, and that of his heirs, to the whole fief. If, in a suit about land, the demandant alledged, that it belonged to one lord, and the defendant affirmed, that

it belonged to another, both lords were summoned to appear in court, and if the lord of the defendant warranted to him his fief, he (the lord) had the option, either to take the defence of it upon himself, or defend it by his tenant; and the rights of both were secured by either of them vanquishing the champion of the demandant: but, if either was vanquished, the tenant lost his land, and his lord the service from it. If the lord denied his warranty, the tenant might prove it by a witness fully qualified, and ready to fight in his cause, or by other sufficient evidence produced on his part to the satisfaction of the court. If the lord of the demandant avowed his warranty, he had also the choice to maintain his right himself or entrust it to his tenant; but if he denied it, the tenant, who had called him into court, was at the king's mercy for having set up a false claim. Glanville explains what was meant by being at the king's mercy (*in misericordiâ regis*), namely, that the offender should be amerced by a jury of the vicinage, but so as not to deprive him of an honourable maintenance according to his rank.

L. ix. c. 2.

Debts upon mortgage or pledges or promise, if denied, might be likewise proved by duel, where the fact contested was known to the demandant's champion. If sureties for a debt denied their suretyship in the whole or in part, the creditor might proceed against them by duel; and so he might against a debtor who denied a deed or writing which acknowledged the

L. ii. c. 2.

BOOK IV. the debt, and the seal affixed to it, if he could find a proper witness to maintain them in combat, especially one whose name was inserted in the deed; but, if other deeds, proved to have been given by the debtor, and evidently signed with the same seal, were produced, the cause hereupon was determined against him without any further process, as he was at the king's mercy.

By the law of those times, in all sales, the seller and his heirs were obliged to warrant to the buyer, and to his heirs, the thing sold; if a suit arose about it; and, on a denial of such warranty, a duel might be awarded between the two parties, under the rules above mentioned.

The manumission of a villein, denied in court, might be proved by a duel, if one who was present at it would attest it by combat; and so might the fact of certain lands having been granted in dower to a woman, at the door of the church, on her marriage, if the husband of her husband denied it.

All this shews, that in England (however it might be elsewhere) the duel was not allowed in any civil cause, without the oath of one proper and uncorrupted witness, who would hazard his life for the truth of what he swore; nor then, if other clear and unquestionable evidence could be produced. The intention of it was to guard possession of property against false oaths. But the remedy was a sad one. For a wrongful possession might

might frequently be secured against a rightful claimant, by the difficulty laid on the latter to find a fit champion, who would maintain his right for him with much danger to himself, and without any profit: or, on the other hand, one of superior skill and strength might be hired to make good a very ill-grounded claim, or very unjust usurpation, so secretly as not to admit of that proof the law required: and, supposing it could be proved, the adverse party might not dare to accuse the offender, at the risk of his own life, or be able to procure another to do it on the same hard conditions.

The great force of these objections to this method of judicature did not escape the attention of King Henry the Second, who, in every civil suit, wherein the demandant could legally prosecute his demand by duel, allowed the defendant the choice of putting himself on the trial of *the grand assise*, which, Glanville says, was *a royal benefit conferred on his people by the clemency of that prince, with the advice of his nobles*; under which general word the parliaments of those times were usually described. According to this regulation, which does the greatest honour to Henry the Second, as a wise and humane legislator, the mode of proceeding in contests on the right to a freehold, or on rents or services due from the tenant of a freehold to his lord, was as follows—A writ was first obtained, at the suit of the defendant, to stop the process by duel; and

L. ii. c. 74

C. 3, 9.

BOOK IV.

Glanville,
l. ii. c. 10.

C. 11.

C. 17.

and then another was demanded, on the part of his adversary, for the summoning of four knights (or military tenants) of the county and vicinage, to elect, upon their oaths, twelve other knights of the same county and vicinage who might best know the truth, and who were to be sworn to recognise, whether the demandant, or the defendant, had the better right to the land, or other thing in dispute. This writ was directed to the sheriff of the county. To these jurymen the same exceptions might be made as to witnesses in the ecclesiastical courts (that is, according to the rules of the canon and civil laws). When twelve, against whom there was no objection were chosen, they were summoned to appear before the king, or before his justices, in the county, on a day assigned in the writ. If all the twelve, so elected, declared in court, upon their oaths, that they did not know the truth of the matter in question, or if any of them attested their ignorance of it, recourse was to be had to others in the county, till twelve could be found who were able to decide upon their own certain knowledge. If all disagreed in their verdict, others were to be added, till twelve at least were unanimous for one of the two parties. Each of the twelve was to swear, that he would not say any thing which he knew to be false, or conceal the truth wilfully, on the fact in dispute, and it was required that their knowledge of it should be from their own eyes, or their own ear

ears, or the report of their parents, or such persons whose evidence they were bound to believe no less than the testimony of their own eyes and ears.

It therefore appears, that this jury were not properly judges, but witnesses of the fact they were called to determine; and accordingly, Glanville, in stating the advantages of this method of trial over the other, says, that, as much as the credit of many proper witnesses was of more weight in judgement than the credit of one witness, so much more equitable was this institution than the way of proceeding by duel. He also observes, that it was more merciful, and more expeditious; the excuses (or *essoigns*.) allowed in this being fewer than in that; of which *essoigns* an account is unnecessary here. I will only take notice, that, in mentioning the effects of the absence of the parties, he says, that the jury in a grand assise might proceed to make their recognition, though the defendant was absent, when the legal exceptions on his part had been made; but could not do it in the absence of the demandant, because it was a rule of law, that by non-appearance in court a man might lose what he had, but nothing could ever be gained by an absent claimant. L. xiv. c. 70.

Perjury in a juror was punished, on a legal conviction, or confession in court, by forfeiture of all his goods to the king, and a year's imprisonment at the least, with a perpetual C. 16.

BOOK IV. brand of infamy, and incapacity of ever bearing testimony again in any court.

L. xiv. c. 18. The verdict of the jury in a grand assize was final; as was also the decision of a cause by duel in the king's court. If the defendant chose the latter, he could not, after the due had once been pledged, recur to the former but was to answer the demand, in every point by himself or his champion.

C. 3.

C. 6. In a controversy concerning the inheritance of a freehold, where the defendant chose to put himself on the assize, if the demandant alleged, that he was sprung from the same stock and his adversary confessed it, the mode of trial was changed, and the cause was determined by enquiring, which of them was nearest in descent to the ancestor from whom the inheritance came. But, if the parentage was denied the relations were summoned, and, generally if they agreed in declaring the consanguinity of the parties, it ended the dispute; but, if the defendant pertinaciously contradicted their evidence, the neighbourhood was called in, and their testimony, concurring with that of the relations, decided the question. The same method was taken when the relations disagreed in the testimony they gave. If the court was satisfied that the plea of kindred was false, he who had used it to stop the assize lost his cause.

L. ii. c. 1. In all proceedings concerning the title to a freehold by writ of right, or *mort d'ancestre*, or of *novel disseisin*, an allegation that the land

had

had in any manner been alienated, either for a time or for ever, was sufficient to stop this species of trial, and put the defendant on another kind of proof. But, on the other hand, the king's charter, confirming the possession, or a final concord, made upon it in the king's court, or judgement past in any court, or a *quiescentia* obtained, or villenage, or bastardy, proved against the demandant, was a bar to his claim. So was likewise a proof that he had been in rebellion against the king; which seems a strange objection, if the guilt of such rebellion had before been pardoned.

A minor could lose no hereditary land, of which he was in possession, before he attained to his age of majority; but a recognition might be made, whether his father, or other ancestor, had held the land in fee, or only in wardship. If the nonage was disputed, the sheriff was to summon, not twelve, but eight freeholders, lawful freeholders of the vicinage, to enquire into that fact. On writs of *mortuorum*, or of *novel disseisin*, the jury summoned were not knights, but freeholders of the vicinage, good and lawful men: nor were they chosen by four knights (or military tenants), as in the causes before-mentioned; but were named by the sheriff. The same method of summons was also used in enquiring, whether land held by the ancestor of a minor was held in fee or in wardship; and concerning the last presentation to livings, and whether

L. xiii. c. 13.

14, 15.

C. 2, 3, 7.

C. 14.

C. 19, 21, 27,

29, 30.

BOOK IV.

land appertained to a lay fee or the church, or was held as a pledge, and not in fee.

Wilkins,

p. 80.

Leg. Edgari,
Supplementum.

But, though the first introduction of trials by juries in causes of this nature, which before had been tried by duel, is ascribed to Henry the Second, and may well be esteemed a principal glory of his reign, some vestiges of that method of trial appear among the Anglo-Saxons. A statute of Edgar directs that in every city three and thirty men, and in small towns and hundreds twelve, or more if desired, should be elected to give testimony (*ad testimonium*). This seems to have been a standing jury appointed for the recognition of facts within their own knowledge.

Spelm. Gloss.
JURATA.

By a law of King Ethelred pleas were to be held in every wapentake, and twelve senio-
thanes were to swear, together with the *præpositus* or chief magistrate of the district, that they would not condemn any innocent man

Dissert. Epist.
p. 34.
Spelm. ut
suprà.

nor acquit any guilty one. Dr. Hickes indeed contends, that these were not a jury, but judges or assessors: nevertheless Sir H. Spelman considers them as a jury, and gives this law as a proof of the antiquity of that method of judicature in England. But it must be remarked, that from the words of the statute they appear to have judged or delivered their

Dissert. Epist.
ut suprà,
p. 33, 34.

verdict in criminal matters alone. Hickes observes very justly, that they differed much from the juries in Henry the Second's time which were otherwise chosen, and changed in every cause. He likewise shews, that all the
freemen

reemen in the Anglo-Saxon county courts, not twelve select jurors, determined the causes tried there; of which he gives proofs, in some remarkable cases, even after the conquest. And Spelman himself says, that the use of trials by twelve men before the conquest was rare, and did not prevail, in any great degree, till the reign of Henry the Second.

Gloss. JURATA.

It appears from Bracton, that, in the times when he wrote, a person accused of felony, or any other crime, had the choice of being tried, either by duel against the appellant who accused him, or by *his country*. But Glanville mentions no such option in criminal matters; and from his treatise it seems, that this benefit, granted by Henry the Second's time, extended only to civil causes enumerated therein.

Bracton, l. iii. de Coronâ, c. 18, 19.

Bracton also takes notice, that if in a case of felony or breach of the peace, the appellant did not live to prosecute his appeal, or retracted it, or was stopt by some exception against him, the accused person was not freed thereby from the charge, but was to answer to the king for the offence against him in breaking his peace, and to be tried by the country: for, by duel, he could not, *because the king did not combat, and had no champion to maintain his cause but the country*. Whereas it appears, that, when Glanville's treatise was written, if a criminal cause could not be prosecuted by duel, recourse was had to the or-

C. 21.

Bracton,
l. iii. c. 1.

deals of fire and water; which having been laid aside when Bracton wrote, the determination by the country was substituted to it. In describing the proceedings before the itinerant judges, this latter author says, that out of every hundred four knights were elected, who were sworn to elect twelve other knights, or (if no such could be found) twelve free and lawful men, who were sworn to answer truly to what questions should be asked of them by the itinerant judges on the part of the king and faithfully to perform what these should command in the king's name, to the utmost of their power. After which the several articles concerning the pleas of the crown, upon which they were to answer, were read over to them, and they had secret injunctions to apprehend all persons suspected of any crimes in the hundred or wapentake, to which they belonged; or, if they could not do it, to give the names of the persons lying under such suspicion to the sheriff of the county, that he might apprehend them in order to a trial. This jury, with respect to the mode of election, resembled that described in the treatise of Glanville for the trial of civil suits; but seems to have been constituted not to try any cause, but to accuse and to bring malefactors to justice. A jury of twelve lawful men of the vicinage is also mentioned by Glanville, being used in his time to make inquisition and proof, upon their oaths, whether a person had died in the crime of usury: for which, when

prove

Glanville,
l. vii. c. 16.

proved, his goods and chattels, wheresoever found, were forfeited to the king, and his land of inheritance to the lord, or lords, of whom he held. But no usurer, though accused by public fame in his country, could be tried, during his life, for that offence; it being presumed he might repent before his death; which if he did, his land and goods were saved. This was a singular part of the law of those times; and Glanville speaks of the jury employed in this inquest as making others for the crown; but he does not say what they were. I presume they were such as arose from accusations, not made by appeal, but by indictment on the ground of public fame, which are mentioned by Bracton as usual in his time. He likewise speaks of four townships being added, on these occasions, to the jury of twelve men; and says, they were all sworn *to tell the truth* on the matters laid to the charge of the persons so accused, and that their verdict was final. Whatever difference may have been, at different times, in the methods of proceeding, whether judgement was given by all the freeholders who attended in court, or by a select number, and however that number may occasionally have varied, the right confirmed by Magna Charta, *that every freeman shall be tried by the judgement of his peers*, was very ancient in England.

Glanville,
l. viii. c. 16.

Bracton, l. iii.
c. 22.

Appeals were made, by writs of right, from the courts of barons and lords of manors to

Glanville,
l. xii. c. 7.

BOOK IV.

Glanville,
l. xii. c. 9.
sequent. ad
21.

C. 1.

L. viii. c. 11.

the county court, on complaint of a defect of justice, which was to be proved by the oaths of the plaintiff himself and two others who had seen or heard the proceedings, in the presence of four legal knights, or more, of the county, whom the sheriff, who presided in the county court, was to summon. Suits were likewise transferred from the above-mentioned courts to this, on complaint of the vassals, that their lords demanded of them such customs or services as they by right were not bound to, or more service than was due, and for various other causes, which it would be too tedious to enumerate here. From the county court, in some cases, suits were brought to the king's court, at the mediation of the county court itself (*mediante comitatu*, says Glanville).

By the same authority we are told, that if, in the court of any of the king's barons, there should arise such a doubt concerning a cause, as that the court should not be able to decide it, the king was obliged, by the right he owed to his barons, to let the cause be brought into his court, and give the baron to whom the difficulty occurred the assistance and advice of the learned and skilful judges there; which having obtained, he (the baron) might return the cause back again, to be finally determined in his own court.

This was, doubtless, of great use to the justice of those courts, where, without such assistance, the ignorance of the judges would have

have frequently prejudiced the right of the BOOK IV.
 suitors.

Sir Matthew Hale has observed, in a passage before-cited, that a writ of *false judgement* was often brought, in the times of which I write, before the king or his chief justice, against the inferior rural courts; and, if the complaint was found just, the members of those courts were considerably amerced. (Which also appears by the Rolls.) But such amercements were not all they had to fear: for Glanville, Glanville, l. viii. c. 9, says, that a court accused of having judged falsely (that is, not agreeably to the evidence given), was bound to maintain its judgement by duel, on the appeal of the party who conceived himself to be injured; yet not against him, but his champion, who in this (as in all the cases before-mentioned) was required to be one that could properly be admitted as a witness of the fact. Glanville makes it a question, whether the court could defend its cause by a stranger, which he does not quite deny, but says it was most properly to be done by the person who had given the judgement. If the court was convicted, the lord thereof lost forever his right to hold it, besides being amerced, with all the other members of it, according to his and their means. If the plaintiff failed in his proof he lost his suit, though the judgement complained of had been only with regard to some incidental point.

Besides

BOOK IV. Besides the above-mentioned trials by combat before the king's justices, there were other before the constable and the marshal, which were granted *for purgation of military honour or when the appeal was upon matter disgraceful or dishonourable to nobility* (as Mr. Selde expresses himself in his treatise *De Duello*).

Gloss.
CAMPUS.

The proceedings in this court, which was called the court of chivalry, and judged by the law of arms, are best shewn by a formula drawn up in the reign of Richard the Second, and presented to that king, according to his orders, by his uncle Thomas de Woodstock; which Spelman, in his Glossary, has given at large. It contains the whole code of this kind of jurisprudence, unknown to the Greeks or the Romans, and arising from notions that did not exist among them. Thomas de Woodstock composed it, not merely from his own observation or knowledge, but from the report of the oldest and most experienced knights in the English court at that time. He says, that the power of appointing these combats, which were only granted when other proof was wanting, belonged to the constable *as vicar-general to God and the king*. On the day assigned, the king himself was to be present in the lists, seated upon a high throne on the lowest step of which sat the constable and the marshal, as judges of the court. These afterwards received the oaths of the parties whereby, among other things, they swore
tha

that they had no stone of virtue, nor herb of virtue, nor charm of any kind, to help them in the combat. The offensive arms, which the court permitted them to use, were long and short swords, and daggers: the defensive were left to their choice. The king (and he alone) might part the combatants, and put an end to the combat, which otherwise could only be ended by the death of one of the parties, or his yielding himself vanquished: nor were any champions allowed in any of the trials before this court, from which, rather than from those in the ordinary courts of law, the modern custom of duelling, *for the reparation of honour*, appears to have sprung; as other courts of the same nature were established in France, and many other parts of Europe. But these combats had the sanction of a legal authority, which the modern duels have not; and this benefit arose from them, that they prevented the mischiefs of private revenge for those injuries, or offences, which affected the honour of the nobles and gentry, and kept a form of public justice and public magistracy presiding over the effects of such quarrels, which could not easily have been stopt by any other means. They likewise helped to support the martial spirit of chivalry, which the law and policy of those times encouraged, for good purposes, in those orders of men, to whom the defence and glory of the nation were principally entrusted. The use of them was brought into England by the Normans, who, in the countries from whence they originally came, had been long accustomed to

BOOK IV.

L. i. c. 7.

See also Robertson, Hist. of the Emp. Charles V. t. i. p. 291, 292.

De Duello.

Spelman, Gloss. ut supra.

them, as appears from the ancient laws of the people of Scandinavia, collected by Stiernhook in his treatise *de jure Sueonum et Gothorum vetusto*, and from other authorities. But, besides points of honour, and disputes about coats of arms (which were also tried in this court), it had cognizance of appeals for treasons committed beyond sea, which Mr. Selden observes, in his treatise on this subject, *were remediless by the old custom of England*. These appeals were decided, as the others were, by duel, between the accuser and accused. The vanquished party (as we learn from the authority of Thomas de Woodstock, before cited) was, by the custom of the court, to be stript of his arms in the lists, and dragged out of them by horses to the place of punishment, and there beheaded and hanged; the constable giving the order, and the marshal taking care of the execution thereof.

This was different from the practice in trials by appeals for the same offence of high treason before the king's justices, in which the appellant, if vanquished, was not punished by death; and Thomas de Woodstock observes, that no distinction was made here between the accuser and accused, *because (says he) the rules of right and equity and the law of arms require, that the appellant, if vanquished, should incur the same punishment as the defendant would do in the same state*. He adds, that, if the king should take the quarrel into his own hands, and stop the combat in order to command an agreement

agreement between the two parties, the constable and the marshall were to bring them before him; and, when he had declared his will to them, they were to be led by those officers to another part of the lists, armed as before this arrest, and in the same manner conducted out of the lists, with great care that neither of them should go one step before the other, because, in this and in all the other causes here tried, he who went first out of the lists was dishonoured.

More particulars might be mentioned concerning these proceedings; but it is enough to add here, that this court having encroached on the other courts of the kingdom, it was declared, on the grievous complaint of the commons, by an act of the thirteenth of Richard the Second, *that no cause which could be tried by the common law of England should be triable there*; within which bounds, I conceive, it had been kept in the age of which I write.

Before I conclude this account of the criminal law of England in the reign of Henry the Second, it will be proper to mention, that there is, in the second year of that king, a disbursement of thirteen shillings and four pence set down in the accounts of the sheriff of London, for the purchase of a house to burn a robber in (*pro unâ domo ad comburendum unum latronem*).

Madox, Hist.
of the Exchequer, c. x.
p. 255.
Mag. Rot.
2 H. II.

It is strange that a house should be wanted for this purpose, instead of a pile of faggots; nor does it appear from any other evidence,

that burning was then the punishment of a robber: yet it might be inflicted by the king's special order, on account of particular circumstances of guilt in the case of this man; perhaps because he had set fire to a house, with intention to rob it, and had burnt the people in it. For the *lex talionis* was anciently esteemed in this kingdom a good rule of justice; and it was one of the faults of the English constitution, during the reign of this prince, that penalties were uncertain and variable at his pleasure. But it is worthy of notice, that neither in the records nor the histories of those times do we find the least trace of *torture* having been used for the discovery of high treason, or any other crime, before judgement was given, or afterwards, for the purpose of forcing a confession from the person convicted.

Of the judicature of parliament, and how it was exercised in the trial of a peer, some account has been given in relating the proceedings against Anselm and Becket. It is often so confounded, by the writers of those days, with that of the king's court, as to make it hard to distinguish the one from the other, or know the separate bounds of each. The king sat in both, and heard causes; but in the cases above-mentioned, where the prosecution was criminal, and at the suit of the crown, he did not give judgement. It seems that in others he did, conjointly with the peers, or the judges of his court. The general custom of those times for kings to administer justice to their people

people in their own persons might have some good effects for the protection of weak against powerful subjects; but not being well consistent with the freedom and impartiality of judicial proceedings, it has been wisely laid aside, and the sovereign is supposed in all his courts of justice to act by his judges, who exercise his power according to the laws, and according to their oaths.

During the interval between the parliament of Clarendon and that of Northampton, Henry the Second made a law, which deserves to be mentioned with particular praise, among the many beneficent acts of his reign. It has been said, in a former part of this work, that this prince had, soon after his coming to the crown, revived a statute of his grandfather Henry the First, which enacted, that if, out of any wreck on his coasts, one man had escaped alive to shore, the whole cargo should be saved to the benefit of the owners. He now further extended the humanity of this law, declaring, that if on the coasts of the English sea, or of Poitou, or of the Isle of Oleron, or of Gascony, any ship should be distressed or endangered, and no man escape from thence alive, yet if any *beast* should escape, or be found herein alive, the goods should be put by his bailiffs, or the bailiffs of those on whose lands the ships was driven, into the custody of four men of good repute, to be restored to the owners, if claimed by them within the term of three months. This was published, as an act

See Appendix
to this Book.

BOOK IV. act of grace from the crown, in the form of a royal charter, which the reader may see in the Appendix to this book, transcribed from Rymer's collections. I conjecture that the reason why wrecks on the coasts of Normandy and Bretagne are not mentioned therein, was that these were included in the general description of *the coasts of the English seas*: or, that a law to this purpose had been made before in those countries. In the preamble it is said that the king had granted this boon *for the salvation of his soul, and the souls of his ancestors and heirs*. It was indeed a far more meritorious and salutary work, than the pilgrimage he made, about the same time, to Becket's tomb, or the stripes he endured, or the gift he offered there. The best atonement a king can make for sin is the doing of good to mankind.

End of the FOURTH BOOK of the History of the Life of King HENRY the Second.

N O T E S

ON THE

FOURTH BOOK

OF THE

Life of King HENRY the Second.

PAGE 11. *They gave out, that such miracles* BOOK IV.
were wrought, by the intercession of this martyr
and saint, as equalled, or even exceeded, the greatest
contained in the legends of the church.

Gervase, of Canterbury, says, that two volumes Col. 1417.
apud Decem
Scriptores.
of miracles, performed by the dead archbishop,
were extant at Christ Church in Canterbury when
he wrote, and affirms, that they equalled all those
of the Gospel. In proof of which he tells us, that
not only diseases of all kinds were healed by the
invocation of his name, but members cut off and
eyes pulled out were restored to the bodies from
which they had been separated, and the dead were
raised to life. “*Ad invocationem nominis ejus qualibet*
“*infirmirate gravati convaluerunt. Quibusdam etiam*
“*genitalibus abscissis et oculis effossis nova membra*
“*resituit, aliisque morte jam * depositâ vitam re- * Q. depositis.*
“*donavit.*” To which Matthew Paris adds,
that he also restored life to dead birds and
other animals: “*Et non solum utriusque sexus ho-* Hist. Angliæ,
“*mines, verum etiam aves, et animalia de morte repa-* P. 121.
“*rantur ad vitam.*” This, I presume, he did, at
Vol. V. Y idle

BOOK IV. idle times, for amusement. But we are informed by Gervase of Canterbury, "that a priest at London, named William, was struck dumb on the feast of St. Stephen, the proto-martyr, and, by a vision, was ordered, for the recovery of his speech, to visit the body of the new martyr at Canterbury, and *drink his blood*. He did so, and recovered the perfect use of his tongue: on the fame of which miracle, the martyr's blood, mixt with water, was sent over the whole world, and given to the sick, who by drinking it were restored to health; as, moreover, some dead persons were to life, by having it infused into their mouths."

Hoveden,
Annal. pars
ii. f. 300.
ad ann. 1171.

Nor are we to suppose that these testimonies of the sanctity of Becket were only received by the vulgar. The archbishop of Sens, in a letter to the pope, delivered to posterity by Roger de Hoveden, told his Holiness very gravely, that the wax-lights, which were placed about the corpse of Becket before his interment, happening to go out in the night, he rose up, and lighted them again himself; and that, after his obsequies were performed by the monks, as he lay upon his bier, he lifted up his right hand, and gave his benediction to all the assembly there present. One is ashamed to repeat all the shocking absurdities, which the zealots of those times were not ashamed to ascribe to the power and wisdom of God, operating, as they pretended, to the honour of this prelate, whom, *on the report of his great and innumerable miracles, and on a solemn examination of them by two cardinal legates* (as the words of the bull itself declare) Pope Alexander fainted. But, in an age of such easy and implicit faith, it is no wonder that his Holiness (however incredulous he himself may have been) should vouch for the truth of these ridiculous fictions,

V. epist. S.
T. e cod.
Vatic. l. v.
epist. 93.
Baronii Annales, t. xii.
p. 315.

fictions, seeing that the controverſy between the church and the crown would more eaſily be determined, to the advantage of the church, by the credit given to them, than by any other means.

“Who but a Damoniack (ſays John of Salisbury in one of his letters) “will affirm that the cauſe, which Epist. Joh. Sarisb. 287.
“crowned its patron with ſo much glory, was unjuſt?”

But beſides the general intereſt of the ſee of Rome, Alexander had another which was perſonal to himſelf. It is very well obſerved in the ſame letter, *“that whereas many doubted whether Alexander was the true pope or not, the miracles of Becket decided that queſtion in his favour; as they could not have been done by one engaged in a ſchiſm.”* This argument was concluſive; and therefore John of Salisbury not unreaſonably expreſſes the utmoſt ſurpriſe, *“that his Holineſs ſhould ſo long delay to admit Becket into the catalogue of ſaints.”* However, the delay was not long: for the canonization followed the death of that prelate within the period of two years. Nevertheleſs we are told, that in leſs than half a century after his deceaſe, it was publicly diſputed in the univerſity of Paris, whether his ſoul was ſaved or damned. And the French at this time would do well to conſider, what would become of the rights of their monarchy, or of the liberties of the Gallican church, if they ought, as good Catholics, to venerate Becket, as a ſaint and a martyr. The points for which he contended were no leſs inconſiſtent with many of theſe than with the laws of this realm: nor could any man now in France maintain with impunity the doctrines and principles aſſerted in his letters, which are evidently thoſe of Gregory the ſeventh, with reſpect to the extent of the papal authority, and the total independence of the church on the ſtate. It was his zeal for this ſyſtem, moſt intem-

Du. Moulin,
Hiſt. de
Norm. p. 382.

BOOK IV. perately exerted, which occasioned his death: and allowing the pope to be, as he is stiled by some canonists, *God upon earth*, of *that God* this great prelate was unquestionably the martyr; but (however he might herein deceive himself) the whole series of the contest between him and his sovereign undeniably proves, that he did not suffer for Christ, or any article of the faith delivered in the gospel.

P. 17. *The very learned bishop Stillingfleet has sufficiently shewn, that the psalter of Cashel is of no better credit, as to the account which it gives of the high antiquities of the Irish, than the British romance abovementioned.*

The compiler of this book was Cormac Mac Culinan, bishop of Cashel in Munster, who left it by his will to that see, as containing the most valuable historical monuments and records of his country. He was also king of Munster, and exercised jointly the regal and the episcopal functions. His priesthood did not prevent him from fighting in person at the head of his army, not against the public enemies of his country and religion, the Ostmen, but against his sovereign, Flan Sionna, supreme monarch of Ireland, by whose forces, and by those of the kings of Leinster and Conaught, he was vanquished and slain, in the year nine hundred and seven, after a most bloody contest.

P. 20. *No notice is taken of them under that appellation in Ptolemy's map of Ireland, though he mentions the Concani, a Celtic people of Spain, as then settled in that isle.*

The Concani came into Ireland from Cantabria or Gallitia; and to these Camden adds, on the authority of Orosius, the Velabri and Luceni (or Lucensii) of Gallitia, as seated in West Munster (Se

(See Camden's Britannia, Ireland.) Horace mentions the Concani as equally savage with the Britons in his time.

P. 21. *For in Spain were no Druids, that order having only obtained an establishment in the British isles and in Gaul, which last country received it (as Cæsar tells us) from Britain.*

The Celtic religion was much the same in all places, where it had not been altered by an intercourse with the Greeks or other neighbouring nations: but the Druidical hierarchy, and the several institutions peculiar to that priesthood, do not appear to have been settled in any part of Europe except those above-mentioned. Cæsar's testimony on that matter cannot, I think, be disputed, considering how inquisitive that great man was, and what opportunities of information he had, during his long abode in Gaul. See, with regard to this point, Dr. Borlase's very learned and sagacious observations on the Antiquities of the County of Cornwall, chapters iii. iv. v. vi.

P. 25. *And in the usual course of things, Ireland, beside the chief monarch, who governed the whole island, had five provincial kings, &c.*

It must be understood, that when one of these five provincial kings obtained the monarchy or sovereignty of the whole island, he continued, as before, to govern his own realm, according to the laws and customs thereof; in like manner as an elector of Bavaria, chosen emperor of Germany, would continue to govern his electorate; which province would be subject to the Imperial crown and the laws of the empire, neither more nor less than it was before that event.

BOOK IV. P. 27. *The royal revenues of the monarch, after this alienation, consisted in tributes, not of money, but cattle, and other necessaries of life, paid to him in kind. The inferior kings had such tributes which their subjects paid to them, &c.*

L. x. p. 423. Dr. Warner has given us, in his History of Ireland, from *the book of rights of Munster, which, Dr. Raymond says, is the oldest book of history extant next the Greek and Roman*, the amount of the revenue sent every year to the palace of Kincora in that province, viz. fourteen hundred and fifty oxen, three thousand six hundred and fifty cows, four thousand eight hundred hogs, two thousand six hundred wethers, one hundred horses, and eleven hundred and fifty mantles; besides contributions of men and ships from the Ostmen. But I neither warrant to the reader the authenticity of this book, nor another account in Dr. Warner's History of the provisions sent to Brian Boro, as monarch of all Ireland, from three provinces of that island, viz. two thousand six hundred and seventy oxen, one thousand three hundred and seventy hogs, one hundred and eighty tons of iron, three hundred and twenty-five hogsheds of claret from the Danes of Limerick, one hundred and fifty pipes of other wine of various sorts from the Danes of Dublin, and five hundred mantles from the county of Tirconnel.

Ibidem.

P. 32. *Bede before him had said, that a colony out of Ireland, the proper country of the Scots, had come into Britain, under the conduct of Rheuda, from whom they were called Dalreudini.*

* See Introduction to the History of Great Britain

By reading a book lately published on * British and Irish Antiquities by Mr. Macpherson; I am induced to consider the authority of Bede on this matter

matter as more doubtful than I had thought it before, and to affirm nothing with certainty concerning the migration of Irish Scots into Britain.

BOOK IV.
and Ireland,
by James
Macpherson,
Esq.

The *Irish* or British language spoken in the Scotch Highlands and some of the Scotch Western Isles, gives that very ingenious gentleman, by whom it is well understood, a great advantage on these subjects over all other criticks who only understand Greek and Latin, in which he is also well skilled. I therefore leave the whole controversy about this dark part of the Scotch and Irish antiquities to those of the two nations who are masters of the language that was common to both. Nor do I pretend to decide, whether the *Picts* were a race of old unconquered Britons remaining in Caledonia, or retiring into the eastern parts of that country from other southern districts, and retaining there the antient custom of painting their bodies, when the more civilized Britons had left it off, or were a different people, as is supposed by Bede and many good modern writers.

That the Caledonians were esteemed the bravest people in Britain, at the time when Tacitus wrote, his testimony proves: but whether they were (as that sagacious historian conjectures) a colony of Germans, or a division of those Gauls who first inhabited this isle, it is hard to determine. They might come from some part of the sea-coast of Germany, and yet speak the Gallic language: for Cæsar tells us, that, in ancient times, many colonies went out of Gaul into Germany; and Monsieur Pelloutier, who has written an excellent treatise on the migrations and manners of the antient Celts, finds many Celtic words in the German or Teutonic, which language he well understood. That the northern coasts of Ireland were first peopled from Caledonia can hardly be doubted.

BOOK IV. P. 40. *The particulars of this battle are so differently related, that no certain account can be given of it here.*

Some say that Bryan Boro commanded in it himself, and was victorious, but died soon afterwards of a wound he had received in the action. Others tell us that the Ostmen, who were beginning to give way, recovered their fainting courage upon seeing him fall, and defeated the Irish: while some affirm, that his age disabling him from acting at the head of his army, he gave up the conduct of it to Prince Murtoogh his son, and was killed in his tent by a party of the Ostmen, who were flying from the battle, in which they had been vanquished. But this last account appears extremely improbable; as the tent of a king is seldom left without a guard, nor do routed soldiers fly into an enemy's camp. A strange story is also told, by some of the Irish writers, of the manner in which Murtoogh, the son of Brian, was slain. They say, that a son of the king of Denmark lay wounded upon the field of battle, and implored the help of that prince, who was riding over it in pursuit of the army he had routed; whereupon he dismounted, and giving his hand to the Dane, was stabbed by him to the heart. But such perfidy, and such enormous ingratitude, where no personal cause of malice, or instigation to revenge for private injuries, could exist, scarce belong to human nature; and it is more credible that this tale was invented by the Irish in hatred to the Danes.

P. 42. *The information he soon gained of the weak condition of Ireland made him hope to add that to his other acquisitions, and this hope was to him a sufficient cause of war, &c.*

If we may believe the Chronicle of Man, published by Camden at the end of his Britannia, this prince, having gained the dominion of that isle and the western isles of Scotland, sent a pair of his shoes to king Morrogh O Brian, supreme monarch of Ireland, and commanded him to carry them, as a sign of subjection, in presence of the ambassadors who brought him this message, through all the rooms of his palace, on the next Christmas-day. The court of O Brian expressed a proper indignation at so arrogant a demand; but he told them, that *rather than Magnus should ravage a single province in Ireland, he would not only submit to carry, but also to eat his shoes.* Accordingly he performed this new species of homage, and having honourably entertained the Norwegian ambassadors, sent them back to their master with many presents for him, and made with him a league of friendship. But they, at their return, describing to that prince the fertility and beauty of the country, into which he had sent them, he coveted to possess it, and attempting the conquest of it perished in the manner here related.

If there be truth in this story, the tameness of O Brian, in submitting to the insolence of so opprobrious a message, must be chiefly imputed to an eager desire of subduing his competitor, David O Lachluin, by the assistance of Magnus. But it does not seem very credible, and no mention is made of it in the Irish annals of those times.

P. 55. *And Bernard says, that, when he first went into Conaught, he found the people of that country more barbarous than any he had ever seen elsewhere, being Christians only in name, but in reality heathens, and beasts rather than men; that they paid no tythes nor first-fruits, contracted no lawful marriages,*

riages, made no confessions, submitted to no penances. &c.

Some of these charges against the people of Conaught are proofs of their not being then Roman Catholicks, but not of their being bad Christians. Yet the account given of them in this passage by Bernard was in other respects too well founded, and corroborates what is said of the barbarism of the Irish by Giraldus Cambrensis: for, though Conaught was the most savage part of their island, yet (excepting the districts then possessed by the Ostmén) the rest of the country could not boast of much greater refinements, or of much better morals; the faults of the government, and the general customs of the nation, being the same in them all.

Ibidem. But that, by the care of this prelate, a great change was soon effected in all these particulars.

V. S. Bernard, in
vitâ Sti.
Malachiæ.
Episc. Bernardi opera,
edit. Paris,
p. 1936.

In describing this change Bernard uses this expression, “*Fiunt de medio barbaricæ leges, Romanæ introducuntur.*” It may be doubted whether here by *leges Romanæ* be meant the civil laws or the canon. But the following words seem to fix the sense to the latter. “*Recipiuntur ubique ecclesiasticæ consuetudines, contrariæ rejiciuntur.*” Perhaps the epithet *Romanæ* included both; as we find it does in other writings of the same age. In order to enable Malachy to bring about this conversion of the Irish to the discipline and canons of Rome, Bernard affirms, that he had received the power of working miracles in as eminent a degree as any of the ancient saints of the church. “*Quo enim antiquorum genere miraculorum Malachias non claruit? Si bene advertimus pauca ipsa quæ dicta sunt, non prophetia defuit illi, non revelatio, non ultio impiorum, non gratia sanitarum, non mutatio mentium,*

“*tium, non denique mortuorum suscitatio.*” One of these miracles was the punishment, by sudden death, of a man, whom the saint could not convince of *the real presence in the sacrament*. See p. 1950. But, that the reader may judge of the credit due to the relator of these wonderful works, I shall transcribe an account he gives of two, that were performed in an oratory built by Malachy, p. 1944. “*Mulier totis dissoluta membris, plausu tro vecta illuc, pedibus suis remeavit domum, unâ duntaxat nocte non frustra in loco sancto præstolata misericordiam domini. Alia quædam ibidem pernoctabat in oratione, quam forte reperiens solam homo barbarus, accensus libidine, et sui minimè compos, irruit rabiosus in illam. Conversa illa et tremefacta suspiciens advertit hominem plenum diabolico spiritu. Heus tu, inquit, miser, quid agis? considera ubi es, reverere hæc sancta, defer Deo, defer servo ipsius, Malachiæ, parce et tibi ipsi. Non destitit ille furiis agiratus iniquis. Et ecce (quod horrible dictu est) venenatum et tumidum animal quod bufonem vocant, visum est reptans exire de inter femora mulieris. Quid plura? terrestrius resiliit homo, et datis saltibus continuo de oratorio exiliit. Ille confusus recessit, et illa intacta remansit, magno quidem et Dei miraculo, et merito Malachiæ.*”

What must one think of all the legends, on which the church of Rome has built her faith in the saints she has canonized, when he who tells us so seriously this ridiculous tale, *for the edification of the faithful and for the honour of St. Malachy*, is no less a personage than St. Bernard, one of the oracles of that church! But that the bigotry of those times should receive even these fables with a pious veneration, when told by learned monks and founders

BOOK IV.

ers of orders, is not half so surprising, as that in the present age, and in a country so enlightened as England, the miracles of Becket, as incredible as those of Malachy, and reported by writers whom no papist will think of greater authority than St. Bernard, should be still urged as an undeniable proof of the sanctity of his cause.

See Philipps's
Life of Cardinal
Pole.

P. 59, 60. *Moreover Giraldus Cambrensis, in reckoning up the claims which Henry had to Ireland, mentions this grant of Adrian, &c.*

Among these are some fables, for which Giraldus cites the British history, meaning Nennius and Geoffry of Monmouth. But (what is much more surprising) the Irish parliament, in an act of the eleventh year of Elizabeth, sess. 3. for the attainder of Shane O'Neill, has recourse to the same fables to prove her Majesty's title to the dominion of Ulster superior to his. I will transcribe the words as they stand in the act itself. "And therefore may it please your most excellent majesty to be advertised, that the auncient chronicles of this realm, written both in the Latin, English, and Irish tongues, alledge fundry auncient titles for the kings of England to this land of Ireland. And first, that at the beginning, afore the comming of Irishmen into the sayd land, they were dwelling in a Province of Spain, called Biscaon, whereof Bayon was a member, and the chief citie. And that at the sayd Irishmens comming into Ireland, one king Gurmonde, sonne to the noble king Belin, king of Great Britaine, which now is called England, was lord of Bayon, as many of his successours were to the time of king Henry the econd, first conquerour of this realm, and therefore the Irishmen should be the king of England's people, and Ireland,

See Irish Statutes, vol. I.
p. 328, 329.

“land. Another title is, that at the same time BOOK IV.
 “that Irishmen came out of Biscay as exiled per-
 “sons in sixtie ships, they met with the same king
 “Gurmonde upon the sea, at the yles of Orcades,
 “then comming from Denmark with great victory,
 “their captaines called Hiberus and Hermon,
 “went to this king, and him told the cause of their
 “coming out of Biscay, and him prayed with
 “great instance, that he would graunt unto them,
 “that they might inhabit some land in the West.
 “The king at the last, by advise of his counsel,
 “graunted them Ireland to inhabit, and assigned
 “unto them guides for the sea to bring them thi-
 “ther; and therefore they should and ought to be the
 “king of England’s men.”

Ibidem. And it appears from the words of John of Salisbury himself, whom Henry employed in this business, that his pretension was founded on the forged donation of Constantine to Pope Sylvester the second.

The words are these. “Ad preces meas illustri
 “regi Anglorum Henrico secundo (Adrianus) con-
 “cepit et dedit Hyberniam jure hæreditario possi-
 “dendam, sicut literæ ipsius testantur in hodiernum
 “diem. Nam omnes insulas de jure antiquo, ex dona-
 “tione Constantini, qui eam fundavit ac dotavit, di-
 “cuntur ad ecclesiam Romanam pertinere.”

P. 64. She made a donation of sixty ounces of gold for the good of her soul, and gave a golden chalice, for the altar of the blessed Virgin, with many other rich gifts, to the abbey of Drogheda, &c.

The gold, which it appears, by this and other passages in the history of those times, the princes of Ireland then possessed, was the produce of their commerce with the Ostmen inhabiting their princi-
pal

pal cities, who purchased with it their cattle and other commodities which their country afforded. Dr. Warner has given us, in his history of Ireland, the will of Cormac king of Munster and bishop of Cashel, in which (as that writer says) his legacies to abbeys and religious houses are thus enumerated: "An ounce of gold, an ounce of silver, his horse and furniture to Ard-finnan; a gold and silver chalice and vestment of silk to Lismore; a gold and silver chalice, four ounces of gold and five ounces of silver to Cashell; three ounces of gold and a mass-book to Emly; an ounce of gold and an ounce of silver to Glendalach; a horse and furniture, an ounce of gold, and an embroidered vestment to Kildare, three ounces of gold to Iniscathy, three ounces of gold, an embroidered vestment, and his blessing to Mountgaret, and four and twenty ounces of gold and silver to Armagh; besides legacies to his friends, amongst which was a golden chain, and a royal robe embroidered with gold and jewels." On which the Dr. remarks, "That if we consider the excessive scarcity of gold and silver in those times, compared with their infinite profusion at present, these were not inconsiderable trifling benefactions for a provincial king." But he does not tell us that he ever saw this will, or on what authority he admits it as a genuine record.

P. 70, 71. *Very early in the spring he sent Maurice Regan, his interpreter and secretary, &c.*

There is in the Lambeth library a manuscript poem, in old French or Norman verse, on the subject of Dermot's expulsion from his kingdom, and recovering it by the aid of the English and Welsh, which was written by some English or Norman rhymers of that age, *from the mouth of this*

his Maurice Regan, as we are told by the author at BOOK IV.
the beginning of his work.

“ Per son *demeine latinier*
 “ Qe moi *conta* de luy l’histoire
 “ Dunt far ici la memoire.
 “ Morice Regan iert celuy
 “ *Buche à buche parla a luy*
 “ *Ki cet jest indita.*
 “ L’histoire de luy me mostra.
 “ Icil Morice iert *latinier*
 “ Al Rei Dormot, ki moult voucher.”

I have shewn these lines in the Lambeth manuscript to a learned critic in the old French or Norman language, who says, that *demeine latinier* signifies *familiarum grammaticum*. Some writers have rendered *tinier* (or *latinner*, as it is in other copies) by the word interpreter, and others by the word secretary; both which senses it will bear. In another line of the same poem Regan is called *Bachiler del Rei Dermot*. The person I consulted understands the word *iert* to signify *etoit* in modern French. He also reads *ces gestes* instead of *ces jest*, as it stands in the Lambeth manuscript. *Ki* is the old way of writing *Qui*, and *out* of writing *eut*. It must be likewise observed that *monstra l’histoire* does not necessarily mean, in the strict sense of the word, that he shewed a written history, but may signify that he instructed him in the history of these facts by a verbal relation, which agrees better with the two preceding lines.

Some historians have cited this poem as the work of Maurice Regan himself, which is evidently a mistake; and others have supposed it a translation into verse of a history written by him in prose: but, that he ever had published or composed such a history,

BOOK IV. history, I cannot discover. No notice is taken of it by Giraldus Cambrensis, or any writer of that age; nor does it appear that any copy, or authentic transcript of it, has been ever seen since that time. A prose translation of the poem into the English language was made by Sir George Carew, Lord President of Munster, during his residence there, in the reign of Queen Elizabeth, and has been published by Mr. Harris among his *Hibernica*, in the year 1747, with explanatory notes. In the translator's preface the verses above recited are given from another manuscript copy, but still more incorrectly than in that which I have followed. Both of them seem to want mending. I cannot think that this rhyming chronicle, drawn from a verbal relation, imperfectly recollected, and mixed with other hearsays, picked up, we know not how or from whom, is of equal credit with the history of Giraldus Cambrensis, whose near kinsmen were actors and principal actors, in most of the facts he relates; especially, as that historian himself afterwards went into Ireland, and from the time he staid there had opportunities of hearing the Irish accounts, as well as the English, of all those recent transactions. In his *Topographia Hiberniæ* we find, indeed, many idle and incredible tales for which he himself makes excuses; but in his history of the conquest of Ireland by the English he proceeded on better information. The greater part of that work is sensibly written; nor does he any where more extol the valour of his countrymen in the actions of this war, or more deprectate the Irish, than the writer of the poem above-mentioned. I have therefore thought it reasonable to prefer his authority to that of the poem in most points of importance, where they cannot be reconciled, the one to the other. But I have added from the

latter some particulars which the former does not BOOK IV.
contradict, and which seem not unworthy of belief.

As for what had past in Ireland during the times that I write of, before the English adventurers in Dermod's service went thither, the best authorities for it are the Annals of Ireland, compiled by contemporary writers, with extracts of which, translated from the original Irish, I have been favoured by a gentleman well skilled in that language, Charles OConor, Esq; who with the noble Irish blood which flows in his veins has naturally inherited a passionate love for the honour of his country, and therefore willingly assists in any undertaking that may render the history of it more known, and more complete. The disagreement of the poem above-mentioned with these annals, in very material facts, is another proof that it could not be written by Regan, or from any memoirs composed by him. It appears from them, that the rape of Devorgalla by Dermod was fifteen years before the expulsion of that king, when the lady was in the flower of her youth and beauty, and Dermod not too old to be her lover: but the poem supposes this event to have happened a little before his expulsion, when (according to the annals) he was approaching to the 70th year of his age. Giraldus Cambrensis has fallen into the same error: but no native of Ireland could have been guilty of it, and much less the secretary of Dermod. There are other such mistakes, and particularly some in the geography of the country, which demonstrate this poem to have been written by a foreigner, and from loose accounts, not delivered, revised, or corrected, by any of the Irish.

The annals I have followed are, like our Saxon annals, very short, jejune, and dry; but they throw

BOOK IV. light on some facts, and correct great inaccuracies in our English historians with relation to the state of Irish affairs preceding the arrival of Fitzstephen in Ireland; nor have they any mixture of those incredible fables, with which the former parts of the history of that nation are generally filled. Mr. OConor distinguishes them by the following names, The Donegal Annals, or of the Four Masters, continued. The Annals of Clonmacnosc, or Continuation of Tigernach.

P. 73. *Harvey of Mount Maurice, Strongbow's uncle, was deputed by that lord, &c.*

The name of this gentleman in the books and charters of those times, which are written in Latin, is *Herveius de Monte Marisco*. Mr. Carte, on the credit of a modern French Genealogy, has translated it Momorency; but I see no grounds for deriving the one from the other. Perhaps *de Monte Marisco* should be rendered *de Mont Marisque*; but Mont-Maurice, or Mount-Maurice, according to the English spelling, has been the usual translation.

P. 77. *Dermot prevailed on Fitzstephen to continue this war by repeated expeditions, till having received intelligence, that the whole Irish nation, under the orders of Roderick OConor, their sovereign, was now arming against him, he granted a peace to the prince of Ossory, &c.*

The historical poem, of which mention has been made in a former note to this book, says nothing of this peace, nor of the subsequent negotiations with Fitzstephen and Dermot, on the part of the king of Conaught, which I have given an account of, from the contemporary history of Giraldus Cambrensis. But it mentions an expedition against an Irish chief-

tain

tain who had revolted from Dermot, about which Giraldus is silent. The particulars are not worth repeating here, as that lord made no resistance, but suffered his country to be pillaged without defence. We have likewise in that poem an account of a second incursion into Offory, before the arrival of Maurice Fitzgerald at Wexford, which tells us, that in assaulting a fortified pass of that country, the men of Wexford, to whom the attack was first assigned, though they went on with much courage, were yet repulsed by the enemy three days successively; after which it was attackt by the English and Welsh, who put the Irish to flight. Probably this action is included in the short and general relation which Giraldus makes of the war against the prince of Offory, c. 4, 5. l. i.

P. 81. *These thoughts he (Dermot) confided to Fitzstephen and Fitzgerald, who advised him, as the only means of success in so arduous a design, to renew his applications to the earl of Pembroke, &c.*

Giraldus Cambrensis adds, that he offered to either of these gentlemen his daughter Eva in marriage, with the succession to his kingdom, which could not be accepted, as both of them were married. But it seems incredible, that this circumstance should have been then unknown to Dermot.

P. 90. *But that monarch, instead of causing (as he ought to have done) some other prince of the royal house of Meath to be regularly elected, made ORuark a temporary administrator of the eastern part of that province, and retained the western himself.*

Giraldus Cambrensis, and other English historians, who wrote in those times, call ORuark *King of Meath*, not distinguishing this temporary administration (which the Irish annalists tell us was

BOOK IV. given to him before, and continued some time after the coming of the English into Leinster) from the royalty of Meath, which ORuark could not take by the Irish constitution and fundamental laws, because he was not of the family to which the election of a king of that realm had been confined. Our writers sometimes call him *Rex Monoculus Midæ*, because he had but one eye. His name is sometimes written ORouark, or ORorick; but in this and other Irish names I follow the orthography of Mr. OConor.

P. 96. *Few were saved; the English cavalry intercepting their flight, and an Irish chieftain, or prince, who had given hostages to the governor, joining in the pursuit with all his clan.*

Lambeth MS.
See also Harris's Hibern.

The historical poem, cited in a foregoing note, says, that Milo de Cogan, before the action began, addressed the Irish chieftain, here mentioned, in these words; "If you perform what I require of you, I will restore to you your hostages safe and free: but you must first take an oath, that, when the enemy and we shall fight, you and your men will stand in some convenient place, where you may behold our actions as neutrals; and, if you shall see that they faint and fly before us, help us to kill them; but if we, like cowards, turn our backs, and are pursued, kill as many of us as you can, that we may not die by their hands." The author adds that, hereupon, the Irish chief took the oath, and posting himself near the wall with a body of his people, as soon as he saw the Norwegians routed and flying, eagerly followed the chase, and slew as many of them as the weapons of his men could reach. But of this very extraordinary speech and oath nothing is said by Giraldus Cambrensis, or in the Irish annals.

P. 97. *This blockade, which entirely prevented the importation of any provisions, had continued almost two months, &c.* BOOK IV.

The historical poem on the subject of this war (an account of which has been given in some former notes to this book) says, that Strongbow, induced by the danger he was in of perishing by famine, sent Lawrence OTool, the archbishop of Dublin, to negotiate with Roderick, and offer that king, if he would raise his siege, to hold Leinster, as his vassal, by homage and fealty; which Roderick proudly refusing, and insisting, that the earl should give up all his conquests, and with all his forces leave Ireland at a day assigned to him, Milo de Cogan proposed that desperate sally, which presently afterwards raised the siege. But Giraldus Cambrensis (whose authority I greatly prefer to that of this unknown rhymers, for reasons before given) says nothing of this offer.

V. Harris's
Hibernica,
p. 11, 12.

P. 100. *On his way he was stopt, in the country of Idrone, at a narrow pass, which ORyan, the petty prince of that district, had seized and fortified.*

We are told by Stanihurst, in his book *de Rebus in Hibernia gestis*, l. iv. p. 171, 172. that, in one of these actions against the Irish, Strongbow with his own hand, in the presence and view of his army, slew his only son, a youth of about sixteen years old, who at the head of a troop of horse had charged the enemy, and, finding they did not give way, returned back with his men to the body of the army, commanded by his father. In proof of this the historian alledges two monuments in a church at Dublin, one of Strongbow, on which is

Z 3

a marble

BOOK IV. a marble statue of that earl; and another of his son, on the left-hand of the earl's, which has also upon it an image, representing that youth, holding up, with both his hands, his entrails, which seem falling out. These figures (Stanihurst tells us) by the fall of part of the church, in the year 1566, were much defaced, but repaired and beautified by order of Sir Henry Sidney, who was then lord lieutenant of Ireland. Another modern historian of the same country says, that on the tomb of the son these verses were engraved :

“ *Nate ingrate, mihi pugnanti terga dedisti ;*

“ *Non mihi, sed genti, regno quoque, terga dedisti.*

At what time these two monuments were first set up we are not told; but Stanihurst speaks of them as ancient, and adds, that the fact was *omnium sermone celebratissimum*. To me it seems, that the story was merely traditional, and that, without much enquiry into the truth, the son's statue was erected by some of the English at Dublin, in the attitude here described: for there is not the least mention of it in Giraldus Cambrensis, or any contemporary writer; and it is hardly possible that they all should have omitted to take notice of so remarkable a fact, which, if it had really happened, could be no secret.

See Hanmer,
Chron. p.
146.

P. 102. *On receiving this message, he turned aside from Wexford, and went to Waterford, &c.*

In the historical poem before-mentioned an account is given of some matters, transacted between Strongbow's arrival at Waterford and his going into England, of which no mention is made in Giraldus Cambrensis or in the Irish annals. I will deliver it to the reader as translated into English prose by Sir George Carew. “ The earl was no sooner come to the city, but a messenger from

See Harris's
Hibernica, p.
13, 14.

O'Brian,

themselves,

BOOK IV. “ themselves, and that they had falsified their faiths
 “ unto him: and sware by the cross of his sword,
 “ that no man there that day should dare lay hands
 “ on the king of Ossory; whereupon the earl,
 “ having sense of his honour, and calling to mind
 “ how far it was engaged, delivered Donald unto
 “ Maurice, commanding him to see him safely
 “ conveyed unto his men. Upon the way, in their
 “ return, they encountered OBrian’s men, laden
 “ with the spoils of Ossory. Prendergast charged
 “ them, slaying nine or ten of these freebooters:
 “ and having brought Donald to his men, lodged
 “ with him that night in the woods, and the next
 “ morning returned to the earl.”

What credit this story, unsupported by the testimony of any other writer, may be thought to deserve, I cannot tell; but it is not improbable, and (supposing it true) does very great honour to Maurice de Prendergast.

We learn from the same authority, that some time before this, in the year 1169, Maurice de Prendergast, having had a quarrel with Dermot, in whose service he then was, entered into that of this Donald, prince of Ossory, and led away with him two hundred soldiers, at the head of whom he served the latter against the king of Leinster, and against OMore, lord of Leix, which territory contained a great part of that province now called the Queen’s County. He forced OMore to submit, and give hostages to Donald; but afterwards was obliged by Dermot and the English, whose assistance OMore had secretly implored, to retire out of Leix; and, at his return into Ossory, he and all his Welsh band would have been treacherously murdered by the people of that country for the sake of their spoils, and to save the wages due to them, if Donald had not preserved them, by refusing his
 assent

assent to so villanous a design. It seems he desired that they should stay in his service; but, they resolving to return immediately into Wales, his subjects resumed their ill intentions against them, and way-laid them in a pass between Kilkenny and Waterford with two thousand men, of which Prendergast having fortunately received information, he escaped the danger, by pretending to make a new agreement, that he and his men would serve the prince of Offory some months longer; on the news of which the ambuscade abandoned the pass, and the Welsh, by a midnight march, got safe into Waterford, and from thence into Wales, out of which Prendergast afterwards returned into Ireland. He now repaid Donald, for having protected him as far as he could against the perfidy of his people, by guarding him in the manner above-related.

The poem adds, that after the return of that P. 14. prince, OBrian went back to Limerick, and the earl of Pembroke to Fernes, where he remained eight days, in which time Murrough OByrne, who ever-more had been a traitor to king Dermod, was brought prisoner to him, and was immediately beheaded, and his body was cast to the dogs, and with him a son of Daniel Kavenagh. But at the same time the earl gave to Donald Kavenagh, the son of Dermod, lands in Leinster, and to another Irishman, who had deserved well of him, the country of Kenselagh. I thought it worth while to mention these circumstances from this anonymous writer, yet observing, that Sir James Ware takes no notice of either of these grants (probably because he did not find any authentick proof of them) though he transcribes from this poem several other grants there mentioned. For what reason this whole account of Prendergast's

BOOK IV. Prendergast's adventures (if we suppose it true) is omitted in the history of the conquest of Ireland by Giraldus Cambrensis, it is hard to conceive. I will only add, that the prince of Offory, here called Donald, and whose surname was Fitzpatrick, in the Irish annals is called Donchad.

P. 102, 103. *He did so, and found him at Newnham in Gloucestershire, preparing to pass, with an army, into Ireland.*

(Ut fertur.)

Gervase of Canterbury says, that common report assigned three reasons for this expedition of the king into Ireland. One was, that the kings and people of that island had sent embassadors to implore him to come to their assistance against the hostilities of the earl of Pembroke, and to take upon himself the dominion of Ireland: another was, that the said earl had offered to hold his acquisitions under him: and the third was, that he might more easily avoid, or be less exposed to, the ill effects of a sentence of interdict, if any such should be pronounced: which this author conceives to have been his principal motive. The first of these supposed reasons would, if the fact had been true, be very important, with respect to the foundation of Henry's title to Ireland; but, as no mention is made of it in any record of that time, or in the history of this transaction by Giraldus Cambrensis, I judge it to be a false report. Nor can I think that the fear of a sentence of interdict being laid on his kingdom would have induced him to quit it; but, on the contrary, I presume it would have been a strong reason for his delaying this enterprize till that danger was over, if he had really feared it, which he did not at this time. The fair opportunity which offered itself to him, of acquiring to his crown the dominion of Ireland, and the

V. Chron.
Gerv. sub
ann. 1171.
col. 1419,
1420.

the danger of leaving it in the earl of Pembroke's possession, independent on that crown, were the only real motives of this undertaking. BOOK IV.

P. 107. *Having thus secured all behind him, he sailed from Milford Haven, with his army, to Ireland, and after a prosperous voyage landed near Waterford, on the feast of St. Luke, in the year eleven hundred and seventy-one.*

Since the printing of this book, an Irish record, of the fourth of Edward the Second, has been communicated to me, in which it is set forth that a particular family of the Ostmén of Waterford, descended from a chief named Gerald * Macgillemory, having claimed a right to be governed by the English laws, derived to them from a charter granted to their ancestors by king Henry the Second, an inquisition was ordered, and it was found by a jury, that, on Henry's approach to Waterford, Reginald Macgillemory, an Ostmén of great power in that county, and who had lands on the coast adjoining to the city, drew three chains across the harbour, to stop the king and his fleet from entering into it: but the ships broke the chains, and the king, as soon as he landed, apprehended this Reginald and all his adherents, tried them in his own court, and condemned them to be hanged as *rebels* against him, which sentence was immediately executed upon them. The same jury likewise found, that he expelled from the city all the Ostmén, except one of the family of Macgillemory, whose Christian name was Gerald, and who, because he had been always faithful to the English, was suffered to remain in a tower which

Anno 4 Edw.
II. inter Pla-
cita Coronæ
in Turr. Ber-
mingham.

* Macgillemory is evidently an Irish name, and how it came to be given to an Ostmén I cannot tell.

belonged

BOOK IV. belonged to him there, with all his family, and afterwards got from the King the charter abovementioned.

It is, in itself, extremely incredible, that, when Waterford was possessed by a strong English garrison of the earl of Pembroke's troops, an Ostman chief, who had lands adjacent to that city, should be mad enough to do an act of this nature, which, if he had succeeded in hindering the fleet from coming into the harbour, or if any ships had been sunk or endamaged in running against the chains, must have instantly drawn upon him the vengeance of those troops, and, soon afterwards, of all Henry's numerous forces, which he could not have prevented from landing at Wexford. Nor can I conceive that such an extraordinary attempt, if it really had been made, or the very remarkable punishment of it, would not have been mentioned by Giraldus Cambrensis, or the Abbot of Peterborough, or Roger de Hoveden, or William of Newbury, or any one of the English contemporary historians, or Irish Annalists of that age! But a still better proof of the falshood of it is, that the jury speak of a *second coming of King Henry into Ireland*, saying, that Gerald Macgillemory defended his tower in the city of Waterford *usque ad iteratum adventum prædicti Dom. Henrici Regis in Hiberniam*. And they suppose a considerable distance of time to have intervened between his expulsion of the Ostmen out of Waterford, and his return into Ireland, during which a war happened between those so expelled, and some English of his train (*de comitiva sua*) to whom he had given their tenements in that city. *Et duravit guerra et dissensio illa per magnum tempus*. Whereas, it is certain that he came but once into Ireland, and all historians agree, that, during his stay in that realm, all was quiet
in

in those parts which had submitted to him. It is possible that the Gerald Macgillememory here mentioned may have merited a distinction from the rest of the Ostmen, by not engaging in the massacre of the English at Waterford, which happened in the year 1173 or 1174, as Giraldus Cambrensis attests: V. Hibern. Expugn. l. ii. c. 4. and that on this fact, ill related to an ignorant jury by some of his descendants, the absurd fictions contained in this record were grounded. The only matter of importance, relating to the acts of king Henry the Second in Ireland, which it really proves, is this, that by a charter from him the Ostmen of Waterford obtained a right to be under the law of England in Ireland. For a charter of Edward the First is recited therein, which says: "Quia per inspectionem Cartæ D. Henrici Regis filii Imperatricis, quondam Domini Hiberniæ, proavi nostri, nobis constat, quod Ostmanni nostri de Waterford legem Anglicorum in Hiberniâ habere, et secundum ipsam legem deduci et judiciari debent, vobis mandamus, &c."

P. 109. *Soon after the king's arrival at Waterford, the citizens of Wexford brought to him their captive, Fitzstephen, as a criminal in bonds, &c.* See Lambeth MS. and Harris's Hibernica, p. 16.

The historical poem, often mentioned in the former notes to this book, says, that when Henry lay at Pembroke, several of the Wexfordians who held Fitzstephen prisoner, passed the sea, and procuring admittance to that king, beseeched him to accept them as his humble servants, saying, "That they purposely came to him to let him know, that they had in their prison Robert Fitzstephen, who had always been a traitor to him, and had rebelled against him both in Wales and England, and that they would deliver him into his hands to do his pleasure with him."

BOOK IV. They also complained, "That he had wrongfully, with forces, entered into Ireland, slain many of their people, burnt their towns, and destroyed their country. The king bad them welcome, thanking them for their good service done to him in taking such a notorious traitor; and told them, they should see that he would, as soon as he came into Ireland, punish Fitzstephen according to his demerit; and so he dismissed them to their contentment." But this writer adds, "That the reason which moved the king to seem so highly offended with Fitzstephen proceeded out of his fear, that if he had not given them a pleasing answer, as he did, in their malice and fury they would have murdered him in prison."

What is here said of this gentleman's having rebelled against Henry both in Wales and in England, is not agreeable to any accounts of his conduct from other writers of that age. The rest may be true; yet the silence of Giraldus Cambrensis about it renders it very doubtful; as that author could hardly be ignorant of a fact so public as this, in which his near kinsman was concerned, and which he had no interest to conceal. I therefore chuse to follow him in dating the first application of the men of Wexford to Henry, on the subject of Fitzstephen, at Waterford, not at Pembroke.

P. 114. *Others were made for the particular benefit of the clergy; to enforce the payment of tythes to the parochial priests; to exempt all the lands and possessions of the church from all impositions exacted by the laity, especially those most usual in Ireland, &c.*

Mr. Carte and other modern historians suppose, that the fourth canon of this council was made against *Coign and Livery*: but these were impositions introduced

introduced into Ireland by the English in later times, yet of much the same nature with what the Irish called *Bonaght*, to which, and another customary exaction, called *Cosherings*, this canon had a particular reference. (See Sir J. Ware, c. 8, and 18. Sir J. Davies, p. 175, and 244.)

P. 127. *All these injunctions the legates, by the authority of the pope, commanded the king to observe with truth and sincerity, for the remission of his sins; because (as they set forth in the preamble to the articles) though he had taken in their presence a voluntary oath, that he neither ordered, nor desired, the murder of Becket, and was exceedingly grieved when the report thereof was brought to his ears; yet he feared, that the malefactors who had slain that prelate took occasion to commit that wicked act from the passion and perturbation they saw in him.*

Gervase of Canterbury has added to what the Collect. 1422
legates say on this point, that he took this oath because the above-mentioned malefactors were out of his power, "*quia malefactores illos qui præfatum archiepiscopum occiderunt habere non poterat,*" although (says this author) they had past some time with him in the pleasures of hunting, after the crime was committed, ("*qui tamen in deliciis venationum aliquandiu postea fuerant cum ipso commorati.*") But the silence of all other writers contemporary with Henry, and the accounts given by some who lived in those days, entirely refute this calumny on that prince. Indeed he must have been absolutely out of his senses, to admit to his presence and pleasures men guilty of a crime which he took such pains to disclaim, and for which they were actually under a sentence of excommunication, while he himself, was suing to be absolved from

BOOK IV. from the guilt of having given occasion to it, though against his will.

P. 128. *And to the church he gave up nothing, by the terms of this agreement, which he had not before proposed to yield.*

This appears from what is said in the text on this subject, and the authentic testimony there recited. Yet, in an extract from Alanus in *Historiâ Quadripartitâ*, which is printed in the fifth book of Becket's epistles, and called the 88th letter, after mention made of the article, by which the king was enjoined to give up all customs introduced *in his times* against the church, there is this additional clause, *Siquæ autem malæ fuerunt ante tempora sua, illas juxta mandatum D. Papæ, et consilio religiosorum virorum temperabit.* But neither this, nor any other passage in the history, or even the letters of those times, can be of any authority against the charter, or public instrument of the reconciliation, drawn up by the cardinals who were employed therein, sealed by the king himself, and sent to the pope as a record of the conditions on which it had been granted. If any other evidence could be wanting, the next best is the letter written by the king on the subject of this transaction, and that from the cardinals to the archbishop of Ravenna; but in none of these is any mention made of this clause. I therefore reject it as false. It must be also observed that many ancient historians date the time of this transaction on the fifth of the calends of October in the year 1172: but it appears by the charters, by the letter of the two legates, and by that of the king above-mentioned, which cannot err in this point, that it was concluded before the feast of Pentecost in that year. The invention of the Popish clergy has been wonderfully fertile in forgeries

forgeries on this matter. Nicholas, cardinal of Arragon, who flourished about the year 1350, in his lives of the Roman Pontiffs, (edit. Mediolen. 1723) has these words, “*Præterea ego et major filius meus rex juramus, quod à Dom. Alexandro Papâ, et ejus Catholicis successoribus, recipiemus et tenebimus regnum Angliæ, et nos et nostri successores in perpetuum non reputabimus nos Angliæ reges veros, donec ipsi nos Catholicos reges tenuerint.*” A most impudent falsehood, without the least foundation or colour of truth!

Almost all the other parts of this pretended oath are differently worded from that which the two legates, in whose presence it was made by the king, and who absolved him thereupon, declared to the world by the public instrument before-mentioned, which the reader may see exactly transcribed in the appendix to this book.

There is likewise a revocation of the Clarendon constitutions, pretended to have been made by the king before the same legates, and entitled *Revocatio articulorum quos rex Henricus secundus voluit ecclesiam Anglicanorum observasse*, of which I have seen a copy. It appears to have been forged by some English monk, and wants no other confutation than the undeniable testimony of the legates themselves.

P. 130. *And concluded by saying, that they were all traitors, who did not diligently endeavour to deliver and free him from the hostile attacks of this one man.*

The words in the original are, “*Quod omnes proditores erant, qui eum, adhibita operâ et diligentia, ab unius hominis infestatione nolebant expedire.*”

BOOK IV. P. 132. *For it appears by records, that Hugh de Morville was alive in the second year of king John, &c.*

A pedigree of the Dacre family drawn up from authentic records and evidences, both public and private, by Richard St. George Norroy king of arms, and signed by him, and by William Camden Clarencieux, agrees entirely with the account of Hugh de Morville given by Dugdale in his Baronage. From both it appears, that the husband of Heloise or Helvisia de Stuteville was one of the murderers of Becket. And there is no evidence of there having been any other Hugh de Morville. This gentleman was forester of Cumberland, and baron of Burgh upon Sands in that county. It appears that he was dead in or before the sixth year of king John; for in that year Ada and Joan, his daughters and co-heirs, divided his lands. There is nothing improbable in the length of his life: for supposing him thirty or thirty-five years old at the time when he murdered Becket, from that to the sixth of king John are but thirty-four years. But with regard to William de Tracy, another of Becket's murderers, there is certainly an error in the evidences given by Dugdale. He tells us, that this baron had the title of steward or justiciary of Normandy in the nineteenth of Henry the second, but held it not much more than two years longer; Richard bishop of Winchester being then substituted in that office. For which he quotes Jorval (commonly called Brompton's Chronicle) where indeed the name of William de Tracy, with the title of *Senescallus*, is put among the witnesses to the charter of agreement between King Henry the second, and William king of Scotland, concluded at Falaise. But in Mr. Rymer's more authentic

See Brompton's Chron.
p. 1105,
1116.

See Rymer,
t. 1. p. 40.

authentick edition of that charter it is William de Curcy, *Willielmo de Curcy senescallo*. Dugdale has likewise confounded the assassin of Becket with his grandson by a daughter married to Sir Gervase de Courtenai, which grandson, named William, took the surname of Tracy, and served in an expedition against the Welsh in the year 1222, the seventh of Henry the third; whereas it appears from two rolls which are cited by Mr. Madox in his History of the Exchequer, and in his Baronia, that the William de Tracy who slew Becket was dead in the first year of king John. The records are in these words, "*Willielmus de Pyreu dat D. regi mille cc libras Andegavenses pro habendâ intergre terrâ Willielmi de Tracy, sicut idem Willielmus eam habuit die quâ obiit. Ita quod stabit ad rectum, si quis inde adversus eum loqui voluerit.*" (History of the Exchequer, p. 362, note n, Oblata Norm. 2 Joh. m. 4.) "*Oliverus Traci debet m. Marcas pro habendâ baroniâ Willielmi de Traci, quæ valet in Anglia c l. Sterling, et in Normannia cc l. Andegav. salvo jure et clamore cujuslibet in ea. Sed non debent requiri a prædicto Olivero, quia terras illas non habet, et pro quibus Henricus de Traci finem fecit sicut infra continetur.*" (Madox Baronia, p. 67, note, col. 2. Magn. Rot. 1 Joh. Rot. 14. 6. Tit. Devenescia.) These records prove undeniably, that the William de Tracy who served in the reign of Henry the Third, was not the same who lived under Henry the Second; but he does not inform us exactly at what time the latter died. Yet it seems pretty evident that he had not been dead very long before the first of King John, when his succession was thus disposed of in England and Normandy, with a saving to the rights of other claimants. In Kisdon's Survey of Devon it is said, that he spent the latter part of his life at

BOOK IV. Wollacomb in the parish of Mortbay in Devonshire, *a very retired place*, and lieth buried in an isle of that church built by himself, under an erected monument, with his portraiture engraven on a grey marble stone, &c.

Amongst the records of the church of Canterbury there is an original deed, by which it appears that a William de Tracy gave the manor of Doccumb in Devonshire to the chapter of Canterbury, for the salvation of his own soul and the souls of his predeceßors, *and for the love of St. Thomas archbishop and martyr of venerable memory*. But whether this was the grandfather or the grandson I find no proof. I rather suppose it was the latter. Probably one or two of the assassins of Becket might die in the Holy Land, or on the way thither; and the others, who returned, lived retired for many years, which might occasion a false report of their death.

P. 136, 137. *It only appears, that, in the course of the year eleven hundred and seventy-two, Adam de Port being arraigned of traiterously conspiring the death of the king, fled out of the realm before a trial, and was outlawed.*

We learn from a record of the year of our Lord 1180 (the 26th of the reign of King Henry the Second) that this Adam de Port payed a thousand marks to the king, as a fine for his own land and his wife's inheritance in Normandy, and to induce the king to pardon him and receive his homage. The words of the record are these,

Ex Magno
Rotulo Pipæ
de Anno 26
Hen. II.
Rot. 10. a.
Sudhante-
scira.

Adam de Port reddit compotum de mille marcis, pro sine terræ suæ et hæreditatis uxoris suæ in Normaniâ, et ut Rex indignationem suam ei remittat, et homagium suum suscipiat.

From the heavy fine he payed we may reasonably infer, that his pardon was not owing to any proof of his innocence, but was obtained by the merit of some discoveries he had made about this time. They must have been of great moment, to render him worthy of such a grace from Henry after such an offence against him!

P. 143. *The ambassadors tell the king, "that they could draw from Louis no answer to the salutation delivered by them in his name,"*

We are told by W. of Newbury, a contemporary historian, that when Henry discovered his son's flight to Louis; he sent to that monarch some persons of great dignity (*viros honoratos*) to demand the prince back, in virtue of his paternal authority; but at the same time to promise, that if any thing, with regard to him, seemed to want amendment, he would speedily amend it by the advice of Louis. Whereupon Louis asked them, "Who sent them with that message?" They answered, "The king of England." But he replied, "That is false: for the king of England is here, and sends no messages by you. But if you continue to give this title to his father, who was once king of England, that king (I would have you to know) exists no longer: and his persisting to act in that character, after having publicly resigned the kingdom to his son, is a fault that must be speedily corrected." It is not very probable, that Louis should speak of Henry's crowning his son, as *publickly resigning his kingdom to that prince*; since he could not but know, from the usual practice in France, that such coronations imported no such thing, but were meant as a security to the succession. And nothing is said of this answer in the letter to Henry from those whom he sent to that

A a 3

king,

BOOK IV. king. If Louis did speak these words, he must have alluded to those that were said to have been spoken by Henry when he ministered to his son at the coronation feast: but those, as well as the action which they accompanied, were extravagant compliments, on which no stress could reasonably be laid.

Ibid. He said, that Henry had frequently, on very slight pretences, violated the faith which they had mutually pledged the one to the other, &c.

By this he probably meant the promises Henry had made to go with him to the Holy War; for of any other breach of faith in Henry towards him I find no trace, and for that he had good excuses.

P. 145. *Before this letter came to him, or about the same time, Richard and Geoffry were sent by their mother to Paris.*

V. Neubrigenf. l. ii.
c. 27.

William of Newbury says, that they went thither in company with their elder brother, who came secretly into Aquitaine, and drew them away from thence with their mother's consent; but it is more probable, that (as other historians relate) he continued with Louis, and she sent them to join him.

V. Benedict. Abb. et Brompton, ad ann.
1173.

P. 151. *Peter of Blois therefore wrote according to his own principles of religion and government, or accommodated his style to the wishes and pretensions of the court of Rome, &c.*

See his works, This was the opinion of the most sagacious Dr. vol. v. p. 727. Stillingfleet. In his answer to Mr. Cressy's Epistle Apologetical he says of Petrus Blesensis, "We must consider that he was always a secret friend of Becket and his cause in the whole quarrel, and

and being employed by the king in his straits to write to the Pope to excommunicate his son, he, knowing very well the prevalent arguments in the court of Rome, might strain a compliment in the behalf of his master to the Pope, for which he had little cause to thank him; although, it may be, Petrus Blesensis exprest his own mind, whether it were the king's or no."

I cannot but think this a much better method of accounting for the difficulty, than that forced one which Mr. Carte has laboured to give in his history of this reign. There is a passage in a letter of King Henry the Second to the emperor Frederick Barbarossa, which is preserved in the history of that prince's life by Radivici Frisingensis, from whence a zealous assertor of the Imperial prerogatives might draw as good a proof that Henry the Second had subjected to Frederick Barbarossa and the empire his kingdom of England and all his foreign dominions, as Baronius and Bellarmine have drawn from the other, to prove the subjection of England to the Pope. The words are these: "*Regnum nostrum, et quicquid ubique nostræ subjicitur ditioni, vobis exponimus et vestræ committimus potestati, ut ad vestrum nutum omnia disponantur et in omnibus vestri fiat voluntas Imperii.*" Yet, strong as these expressions are, they really meant nothing more than a high compliment to the Emperor in return for one made by him; as will appear by the whole letter, which the reader may see transcribed in the Appendix to this book. And Radivici observes in another part of his history (l. ii. c. 76.) that the same hyperbolical style was used in writing to this prince by all the kings in Europe, notwithstanding the constant jealousy they had of his power." "*Reges Hispaniæ, Angliæ, Franciæ, Daniæ, Boemiæ, atque Ungariæ, quamvis suspectam*"

"semper

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BOOK IV. "*semper ejus haberent potentiam, sibi adeo per amicitiam et societatem devinxit, et ad suam voluntatem sic inclinatos habuit, ut quoties ad eum literas vel legatos miserint, sibi cedere auctoritatem imperandi, illis non deesse voluntatem obsequendi denuncient.*"

Yet this too, I presume, proceeded rather from the secretaries, who wrote the letters, than from the princes themselves; the eloquence of that age being turgid, and the monks, whose pens were employed in these affairs, straining the compliments they were ordered by their masters to make beyond the bounds of propriety, and without a due regard to the dignity of those in whose names they wrote. That the Pope and the Emperor had a preeminence of rank and dignity; the one as spiritual, and the other as temporal, chief of that system, in which the whole western world of the Roman communion was considered as one body, all the princes acknowledged; but this implied no subjection.

P. 172. *Of the foot very few escaped alive, &c.*

Some writers of that age make the number of Flemings slain in this battle ten thousand. If this be true, the heavy-armed infantry, called by William of Newbury *pedites fortes*, must have been fewer in number than the archers and light horse, whom that author does not mention.

P. 173. *After the rout of the Flemings, Henry's forces, by which that victory was obtained, went into winter quarters; the late season not permitting them to undertake the siege of Framlingham Castle.*

Diceto, and after him Matthew Paris, relates, that the generals of the king's army, by an agreement with Hugh Bigot corruptly made on their part, permitted a body of fourteen thousand Flemings, who at this time were pent up in Framlingham

lingham Castle, where, by reason of their multitude, they must necessarily have perished for want of food if the place had been closely blockaded, to go out of that fortress, and return into Flanders, giving them a safe conduct as far as Dover, and providing ships in that port to carry them over. But how all these Flemings came to be in the castle, does by no means appear. That any were left there when the earl of Leicester marched out is not said by any writer who lived in those times; and Diceto tells us himself, the army under that earl was almost entirely destroyed or taken. Nor can one suppose that Hugh Bigot, who had forced them to go out from the inconvenience or danger of keeping them longer there, would immediately afterwards have admitted another and a greater army of their countrymen into his castle. It is also highly improbable that the constable Hugh de Bohun, or the earl of Cornwall the king's uncle, or any of the nobles who had served him so well against the earl of Leicester, should be gained by bribes to do any thing contrary to his service. It seems therefore that no credit is due to this story.

P. 178. *The bishop of Lincoln, informed of the retreat of the Scots, built a castle at Topcliff, &c.*

These castles, which were so soon run up, were probably built of wood, protected by the steep hills on which they were situated, and by a circle of walls, or sometimes two, with deep ditches and ramparts, which were made of the earth dug out of the ditches. There were others of which the chief defence was the water with which they were inclosed, being placed in low grounds, which had running streams in abundance; and these were called *Motæ*, from whence we derive the word Moats.

BOOK IV. P. 209. *Henry did not pursue them; the forces he had with him there, though sufficient to secure his principal object, the defence of the town, not being able to force so superior an army in the open field.*

Some ancient writers say, that, to secure his retreat, Louis treated with Henry, and, having promised, upon oath, to confer with him, the next day, for settling the conditions of a general peace, obtained from him thereby a suspension of hostilities, which he used to draw off his army unmolested, and then broke his faith, by not keeping the appointment he had solemnly made. But it does not appear that such a fraud could be necessary for him; the confederates being so superior to Henry in the number of their forces, and especially of their cavalry, that, as they retired in good order, it would not have been prudent for him to attack them, at the hazard of a battle. William of Newbury, one of the best historians of those times, says nothing of this treaty; nor is it mentioned by Diceto, another contemporary writer, who speaks particularly of other less important occurrences in the siege of Rouen, and with great blame of Louis for a supposed breach of faith in the affair of Verneuil.

P. 227. *And, for some time afterwards, dined together, every day, at the same table, and lay, every night, in the same bed.*

From hence it should seem, that, for some reason not explained, young Henry's queen was not yet restored to her husband. Probably she had been confined in the Tower of London, and it was not thought proper to discharge her from thence till the two kings met the parliament assembled at Westminster eleven days after their landing.

P. 234.

P. 234. *He was attended by the king of Scotland, who* BOOK IV.
brought thither with him all the bishops, and free-
holders of his realm, from the greatest to the least,
&c.

These are the words of Benedictus Abbas, "*Et*
habuit sibi obviam Willielmum Regem Scotiæ, qui
secum adduxerat omnes episcopos, et comites, et ba-
rones, et milites, et francos tenentes terræ suæ a
maximo usque ad minimum, &c."

It must be observed, that the freeholders in Scotland at this time were much fewer in proportion to the number of the people, than the freeholders in England; the Scotch having no tenants in free socage.

P. 243. *For he took from Hugh de Lacy the govern-*
ment of that kingdom, &c.

I presume that Hugh de Lacy, after the siege of V. Benedict;
 Verneuil, which city he had defended, returned into Abb. t. i.
 Ireland, about the middle of August, and executed P. 56.
 the functions of chief governor there till the earl
 of Pembroke was sent, about the end of autumn,
 to take that post. The fragment ascribed to Mau- V. Harris's
 rice Regan expressly says, that *the city of Dublin* Hibernica,
was by Lacy rendered to that earl, and that Lacy then P. 18.
retired with all his followers into Meath to inhabit the
same. This name is sometimes written Lacey or
 Lasci in old authors, but the charters have it Laci
 or Lacy.

P. 279. *The monk who relates this represents it as*
showing the impiety of the king; but it only shews
that he thought this superstitious method of trying a
criminal accusation was fraudulently managed; and
so, doubtless, it was; or no man could ever have
been acquitted by it.

BOOK IV.

It is a strange notion of the President Montesquieu in his *Esprit des Loix*, that, in a people accustomed to the use of arms, the skin would become too hard and callous to receive impression enough from the hot iron or boiling water, to have it appear three days afterwards; or that, if it did appear, it was a mark that he who underwent this proof was an effeminate man! His words are, “*Qui ne voit que chez un peuple exercé à manier les armes, la peau rude et calluse ne devoit pas recevoir assez l’impression du fer chaud, ou de l’eau bouillante, pour qu’il y parut trois jours après? Et s’il y paroïssoit, c’étoit une marque que celui qui faisoit l’épreuve étoit un effeminé.*” He adds, that the French peasants handle hot iron at pleasure with their callous hands; and that the hands of women who work hard could likewise resist the heat thereof. “*Nos paisans avec leurs mains calleuses manient le fer chaud comme ils veulent; et quant aux femmes, les mains de celles qui travailloient pouvoient résister au fer chaud.*”

Esprit des Loix, l.xxviii. c. 17.

Essais Historiques sur Paris, t. i. p. 195.

Another French writer very justly expresses his surprise at the President’s thinking, *that their ancestors had hands like the paws of a crocodile*, and asks, *in what province of France the peasants plunged their hands and wrists in boiling water without its leaving any mark?* But he shews by the instance of the common fire-eaters, that there were artifices by which the impression of the fire might be resisted.

L. xxvii. c. 17.

The President has another extraordinary passage in that part of his book where he treats of judicial combats or duels. He says, this kind of proof had some reason founded on experience; for, in a nation wholly warlike, cowardice implies many other vices, particularly the want of a due sense of honour, notwithstanding all the force of education

cation and example; and usually in such a nation persons well born, who have that sense as they ought, will not be deficient in force or skill, because they will exercise themselves all their lives in such things as are necessary for the obtaining of honour.

“ *La preuve par le combat singulier avoit quelque raison fondée sur l'expérience. Dans une nation uniquement guerrière la poltronerie suppose d'autres vices; elle prouve qu'on a résisté à l'éducation qu'on a reçue, et que l'on a pas été sensible à l'honneur, ni conduit par les principes qui ont gouverné les autres hommes; elle fait voir qu'on ne craint pas leur mépris, et qu'on ne fait point de cas de leur estime; pour peu qu'on soit bien né, on n'y manquera pas ordinairement de l'adresse qui doit s'allier avec la force, ni de la force qui doit concourir avec le courage, parce que faisant cas de l'honneur on se sera toute sa vie exercé à des choses sans lesquelles on ne peut l'obtenir.*” But, surely, however warlike a nation might be, and however trained to arms, there would be a great difference between the strength and the skill of different men, and it could not be certain that the advantage would be on the side of that combatant whose cause was the justest. Nor did it follow, that a man was either a coward, or insensible to honour, because he was slain in a duel. How then could experience shew, that there was any reason in this method of tryal?

The same writer observes, that gentlemen fought L. xvii. c. 20. against each other on horseback, and with their arms, but villeins on foot, and with sticks; from whence it followed, that the stick was the instrument of outrage, because a man beaten with it had been treated like a villein. “ *Les gentilshommes se battoient entr'eux à cheval et avec leurs armes, et les vilains se battoient à pied et avec le bâton. De là il suivit que le bâton étoit l'instrument des outrages, parce qu'un homme qui en avoit été battu, avoit été* ”
“ traité

BOOK IV. "*traité comme un vilain.*" But, according to this reasoning, the striking with a stick would have dishonoured a gentleman as much as being struck, *because it was using the weapon of a villein*; and if a gentleman had received any number of blows with the flatt of a sword, or with any other weapon which gentlemen used, it would not have been considered as any disgrace! Such conceits are the blemishes of Montesquieu's book, which in many respects deserves the highest praise; but he had the fault from which writers with warm imaginations and great subtilty of wit are seldom quite free, an excessive desire of saying something new upon every subject, and differing from the common opinions of mankind.

P. 232. *It therefore appears that this jury were not properly judges, but witnesses of the fact they were called to determine.*

It is easier to see the necessity of a jury's being *unanimous*, when summoned, not as judges, but as witnesses of a fact, than when they are appointed to judge and determine upon evidence given by others.

P. 280. *And the same modes of trial were customary, long before, in many heathen nations, particularly among the Celtic tribes, who in their early migrations out of the east, brought with them these superstitions, and spread them over the greatest part of Europe.*

See Pellou-
rier, *Historia*
des Celtes, t.
ii. c. 9, 10.

The Celts believed that intelligences resided in water and fire, which had the power of distinguishing the innocent from the guilty. The Germans tried by water the legitimacy of their children.

Et quos nascentes explorat gurgite Rhenus.

Claudius in Rufini, l. ii.

Thucydides,
l. i. c. 3.

The Greeks, who drew many customs from the
antient

antient Pelasgi, the first inhabitants of their country, were not unacquainted with trials by hot iron; for mention is made of that ordeal in the Antigone of Sophocles. Mons. Pelloutier has proved that the Pelasgi were Celts. Heliodorus, in his *Æthiopicks*, a book full of antient learning, particularly with regard to religion, makes Chariclea, a priestess of Apollo at Delphi, prove her virginity by walking on burning plough-shares without harm. Strabo mentions a temple under Mount Soraacte, near which there was a grove, dedicated to the Nymph Feronia, where men walked unhurt over heaps of burning coals. The priests of this temple had the secret of preventing the action of the fire on the naked feet: and this was a remnant of the antient Celtick religion, established in Italy before the Greek colonies had fixed themselves there. The Roman religion was a mixture of the Celtick and Grecian. I will end this note by observing, that even in our days the vulgar have tried witches by throwing them into water; a traditional ordeal derived from our Celtick forefathers!

T. i. c. 9.

Strabo, l. v.

226.

See also Plin.

H. N. vii. 2.

P. 281. *This also was a part of the antient jurisprudence of many barbarous beathen nations, &c.*

Nicolaus Damascenus tells us, that the Umbrians, a Celtick people, decided all controversies among themselves by combats: "*Umbrici, quum controversias inter se habent, pugnant armati, ac si bello congregiendum esset, et videntur justiore habuisse causam qui adversarium interimerent.*" Velleius Paterculus says, that the Germans thanked Varus, for determining by law those disputes which used to be determined among them by arms. "*Gratias agere Varo, quod solita armis discerni jure terminarentur.*" Ovid says of the Getes,

Apud Sto-

bæum, l. lviii.

L. ii. c. 218.

Nec

*Nec metuunt leges, sed cedit viribus æquum,
Vittæque pugnaci jura sub ense jacent.*

And in another place,

Adde quod injustum rigido jus dicitur ense.

To what is said in this history of trials by duel I will add here, that I find, in the Exchequer accounts, sums allowed for the maintenance, armour, and apparel, of certain persons there called *probatores regii*, employed to convict offenders by duel. See Madox, Hist. of the Exchequer, c. x. p. 255, 256.

P. 293. *The town of Preston was amerced five marks, for having put a man to the water ordeal without warrant, &c.*

I also find in the History of the Exchequer a fine of twenty marks, which Gospatrick of Newcastle owed to King Henry the Second, for a permission to clear himself by oath, *instead of the hot iron*, concerning some crime not named in the record; and another of sixty marks, which Robert the son of Brien paid, *to be freed from that ordeal*, on some accusation not exprest. These indulgences should either have been granted to all, or sold to none.

P. 311. *And Glanville speaks of the jury employed in this inquest, as making others for the crown, &c.*

Among the records transcribed in the Appendix to this book from the History of the Exchequer, concerning pleas in the reign of Henry the Second, before the itinerant justices, frequent mention is made of *juratores comitatus, et minuti homines comitatus*. They are sometimes named together, For instance, it is said, *Et idem Vicecomes reddidit compotum de xls. de placitis G. de Clint. de juratoribus et minutis hominibus comitatus*.

Ibid.

Ibid. *I presume they were such as arose from accusations, not made by appeal, but by indictment on the ground of public fame, which are mentioned by Bracton as usual in his time.* BOOK IV.

It must be observed, that Bracton takes care to distinguish the public fame which was a ground for indictments, from mere common report. He says it ought to be such as takes its rise from good and grave men, who are worthy of credit, not from the malicious or slanderous; and adds, that popular clamour is often caused by what has no foundation in truth, for which reason the vain discourses of the people are not to be regarded. “*Et sciens* V. Bracton, “*dum quod fama, quæ suspicionem inducit, oriri debet* l. iii. c. 22. “*apud bonos et graves, non quidem a malevolis et* “*maledicis, sed providis et fide dignis personis.*

“*Tumultus enim fit et clamor populi, quandoque de* “*pluribus quæ in veritate non fundantur, et ideo vanæ* “*voces populi non sunt audiendæ.*”

*The END of the NOTES to the FOURTH BOOK of the
LIFE of KING HENRY the SECOND.*

A P P E N D I X

T O T H E

F O U R T H B O O K

O F T H E

Life of King H E N R Y the Second.

N^o I.*Rymeri Fædera, Tom. I. p. 15.*

BOOK IV.

This refers to
p. 57. of this
vol.A. D. 1154.
An. 2 H. II.

ADRIANUS Episcopus, servus servorum Dei, carissimo in Christo filio illustri Anglorum Regi, salutem, et Apostolicam Benedictionem. Laudabiliter satis et fructuose de glorioso nomine propagando in terris æternæ felicitatis præmio cumulando in cœlis, tua magnificentia cogitat; dum ad dilatandos Ecclesiæ terminos, ad declarandum indoctis et rudibus populis Christianæ fidei veritatem, et vitiorum plantaria de agro Dominico extirpanda, sicut Catholicus Princeps intendis, et ad id convenientius exequendum consilium Apostolicæ sedis exigis et favorem. In quo facto, quanto altiori consilio, et majori directione procedes, tanto in eo feliciter progressum te, præstante Domino, confidimus habiturum, eo quod ad bonum exitum semper et finem soleant attingere quæ de ardore fidei et religionis amore principium acceperunt.

B b 2

Sane

Sane Hiberniam et omnes Insulas quibus sol justitiæ Christus illuxit, et quæ documenta Fidei Christianæ receperunt, ad jus beati Petri et sacrosanctæ Romanæ Ecclesiæ (quod tua etiam nobilitas recognoscit), non est dubium pertinere; unde tanto in eis libentius plantationem fidei fidelem et germen Deo gratum inserimus, quanto id a nobis interno examine districtius prospicimus exigendum.

Significasti siquidem nobis, fili in Christo carissime, te Hiberniæ Insulam, ad subdendum illum populum legibus, et vitiorum plantaria inde extirpanda velle intrare, et de singulis domibus annuam unius denarii beato Petro velle solvere pensionem, et jura Ecclesiarum illius terræ illibata et integra conservare. Nos itaque, pium et laudabile desiderium tuum favore congruo prosequentes, et petitioni tuæ benignum impendentes assensum, gratum et acceptum habemus, ut, pro dilatandis Ecclesiæ terminis, pro vitiorum restringendo decursu, pro corrigendis moribus et virtutibus inferendis, pro Christianæ Religionis augmento, Insulam illam ingrediaris; et quæ ad honorem Dei et salutem illius spectaverint exequaris; et illius terræ populus honorifice te recipiat, et sicut dominum veneretur, jure nimirum Ecclesiarum illibato et integro permanente, et salva beato Petro, et sacrosanctæ Romanæ Ecclesiæ de singulis domibus annua unius denarii pensione.

Si ergo, quod concupisti animo, effectu duxeris prosequente complendum, stude gentem illam bonis moribus informare, et agas, tam per te, quam per illos quos ad hoc fide, verbo, et vita idoneos esse perspexeris, ut decoretur ibi Ecclesia, plantetur et crescat fidei Christianæ Religio, et quæ ad honorem Dei et salutem pertinent animarum taliter ordinentur, ut et a Deo sempiternæ mercedis cumulum

lūm consequi merearis, et in terris gloriosum nomen valeas in seculis obtinere. BOOK IV.

N. B. Some manifest errors in this charter, as given by Rymer, who does not say that he published it from any original Record, are corrected from the copy given by Giraldus Cambrensis in his *Hibernia Expugnata*, l. ii. c. 6. in Camden's *Anglica, Normannica, &c.* and also in his *Book de Rebus a se gestis*, par. ii. c. 11. in *Angliâ Sacra*, par. ii.

N^o II.

This refers to
p. 120. of
this vol.

Ware, Hibern. Antiq. p. 235.

HENRICUS, Dei gratia, Rex Angliæ, et Dux Normanniæ et Aquitaniæ, et Comes Andegaviæ, Archiepiscopis, Episcopis, Abbatibus, Comitibus, Baronibus, Justitiariis, et omnibus Ministris et fidelibus suis, Francis, Anglis et Hiberniensibus totius terræ suæ, Salutem. Sciatis me dedisse et concessisse, et præsentī charta meā confirmasse Hugoni de Lacy, pro servitio suo, terram de Midia, cum omnibus pertinentiis suis, per servitium quinquaginta Militum, sibi et hæredibus suis, tenendam et habendam de me et hæredibus meis, sicut Murchardus Hu-Melachlin eam tenuit, vel aliquis alius ante illum, vel postea. Et de incremento dono illi omnia feoda, quæ præbuit vel præbebit circa Duveliniam, dum Balivus meus est, ad faciendum mihi servitium, apud Civitatem meam Duveliniæ. Quare volo et firmiter præcipio, ut ipse Hugo et hæredes sui post eum, prædictam terram habeant, et teneant omnes libertates, et liberas consuetudines quas ibi habeo, vel habere possum; per prænominatum servitium, a me et hæredibus meis, bene et in pace, libere, et quiete, et honorifice, in bosco et plano, in pratis et pascuis,

BOOK IV. in aquis et molendinis, in vivariis et stagnis, et piscationibus et venationibus, in viis et semitis, et portubus maris, et in omnibus aliis locis et aliis rebus ad eam pertinentibus, cum omnibus libertatibus, quas ibi habeo, vel illi dare possum, et hac mea charta confirmare. Teste Comite Richardo filio Gilberti, Willielmo de Braosa, etc. Apud Weisford.

This refers to
p. 125. of
this vol.

Nº III.

Epistola 89. L. v. E Codice Vaticano, Edit. Brussels, corrected by the Manuscript in the Cotton Library.

Regi Angliæ Albertus et Theodebertus Cardinales.

NE in dubium veniet quæ geruntur, et usus habet, et communis consideratio utilitatis exponit, ut scripturæ serie debeant annotari. Inde siquidem est, quod nos mandatum illud in scriptum duximus redigendum, quod vobis pro eo fecimus, quia malefactores illos, qui S. memoriæ T. quondam Cant. Arch. occiderunt, occasione motus et turbationis, quam viderunt in vobis, ad illud facinus processisse timetis. Super quo tamen facto purgationem in nostra præsentia de voluntate propria præstitistis, quod videlicet nec præcepistis, nec voluistis ut occideretur, et quando pervenit ad vos plurimum doluistis. Ab instanti siquidem Festo Pentecostes usque ad annum tantam pecuniam dabit, unde ad arbitrium Fratrum Templi ducenti milites valeant ad Defensionem Hieros. terræ spatio unius anni teneri. Vos autem a sequenti Domini Nativ. usque ad triennium terminum, Crucem accipi-

cipietis, proxima tunc æstate illuc in propria persona profecturi, nisi remanserit per D. Papam, vel Cathol. successorem ejus. Sane si contra Saracenos in Hispaniam pro urgente necessitate profecti fueritis, quantum temporis fuerit ex quo arripueritis iter, tantumdem supradictum spatium Hieros. Profectionis poteritis prolongare. Appellationes nec impedietis, nec permittetis impediri, quin libere fiant in ecclesiasticis causis ad R. Eccl. bona fide, et absque fraude, et malo ingenio, ut per R. Pont. causæ tractentur, et suum consequantur effectum. Sic tamen, ut si vobis suspecti fuerint aliqui securitatem facient, quod malum vestrum vel Regni vestri non quærent. Consuetudines quæ inductæ sunt contra ecclesias terræ vestræ tempore vestro penitus demittetis, nec ab episcopis amplius exigetis. Possessiones Cantuariensis Ecclesiæ, si quæ ablatae sunt, plane restituetis, sicut habuit uno anno antequam Archiep. de Ang. egrederetur. Clericis præterea et Laicis utriusque sexus pacem vestram, et gratiam, et possessiones suas restituetis, qui occasione prænominat. Arch. destituti fuerint. Hæc autem vobis, autoritate D. Papæ, in remissionem omnium peccatorum vestrorum injungimus et præcipimus observare, bona fide, absque fraude, et malo ingenio.

Juravit hoc Rex, juravit et de Consuetudinibus novis demittendis Filius ejus. Et juraverunt ambo quod a vobis et successoribus vestris non recederent, quamdiu eos sicut Christianos Reges vel Catholicos habueritis.

In that which is called Epist. 88. but is really only an Extract from Alanus, in Hist. Quadripartita, there is this Clause:

BOOK IV.

Secundo, quod prava Statuta de Clarenduna, et omnes malas Consuetudines, quæ in diebus suis in Ecclesias Dei inductæ sunt, penitus dimitteret. *Si quæ autem malæ fuerunt ante tempora sua, illas juxta mandatum D. Papæ, et consilio religiosorum virorum temperabit.* But this is of no authority against the Act or Instrument of Reconciliation, drawn up by the Cardinals who made it, and the testimony of the King himself in his Letter to the Clergy of England.

This and the next refer to p. 142, 143. of this vol.

N^o IV.

Petrus Blesensis, Epist. cliv. cliii. p. 281, &c.

Reginæ Anglorum Rothomagensis Archiepiscopus, et Suffraganei sui, salutem, et quæ ad pacem sunt, querere.

IN publicam notitiam venit, nec alicui Christiano licitum est ignorare, quam firma et indissolubilis sit copula conjugalis. Matrimonia semel inita separari non posse, sanxit veritas, quæ mentiri non potest. Quos Deus, inquit, conjunxit, homo non separet. Sicut autem divini mandati se transgressorem constituit, qui separat conjugatos, ita culpabilis conjugata est, quæ se a viro suo separat, fidemque socialis vinculi non observat. Cum una carē conjuges efficiantur, necesse est, ut unionem corporum comitetur spirituum unitas et paritas in consensu naturæ conditionum. Apostoli mandatum et Evangelii legem mulier illa evacuat, quæ viro non est subdita. Caput enim mulieris vir est, de viro sumpta est, viro est unita, viri subdita potestati. Omnes itaque

communi et lamentabili querimonia deploramus, quod, cum sis mulier prudentissima, divertis a viro, recedit, latus a latere, membrum capiti non deseruit, imo, quod enormius est, viscera Domini Regis et tua pateris insurgere contra Patrem: ut merito cum propheta dicat, Filios enutrivisti et exaltavisti: ipsi autem spreverunt me. Utinam, sicut alius propheta commemorat, praevenisset hora novissima dies * vestros, et operuisset terra faciem † vestram * *nostros.* † *nostram.* nec videremus hæc mala. Scimus, quia nisi revertaris ad virum tuum, eris generalis ruinæ occasio: et quod singulariter nunc delinquis in commune dispendium converteretur. Revertere itaque, Regina illustris, ad virum tuum, et Dominum nostrum, ut in tua reconciliatione reformetur laborantibus quies, et in tuo reditu lætitia redeat universis. Si te ad hoc non promovent preces nostræ, te saltem afflictio populorum, imminens pressura Ecclesiæ, et desolatio regni sollicitet: aut enim mentitur veritas, aut omne regnum in se divisum desolabitur. Sane hæc desolatio in Dominum Regem converti non potest, sed in filios ejus, et successores ipsorum. Contra manum scæmineam et consilium puerile provocatis offensam Domini Regis, cui etiam fortissimi reges colla subiciunt. Ea propter, antequam res in deteriore exitum vergat, redeas cum filiis ad maritum, cui parere et cohabitare teneris, te converte, nec tibi aut tuis filiis sit suspectus. Certissimi enim sumus, quod omnimodam exhibebit vobis dilectionem, et securitatis plenissimam firmitatem. Mone quæso filios tuos, ut patri suo subditi et devoti existant, pro quibus tot passus est angustias, tot discrimina, tot labores. Unde, ne inconsulta facilitas dilapidet ac disperdat quod tantis est sudoribus acquisitum, hæc tibi, piissima Regina, et zelo Dei dicimus, et sinceræ caritatis affectu: parochiana enim nostra es, sicut et vir
tuus.

tuus. Non possumus deesse justitiæ. Vel redibis ad virum tuum, vel jure canonico constringemur et tenebimur in te censuram Ecclesiasticam exercere. Quod quidem inviti dicimus, et quod, nisi respueris, cum dolore et lacrymis faciemus. Valete.

Epist. cliii.

Henrico Dei Gratia Illustri Regi Anglorum, etc. R. Rothomag. Archiepiscopus, et Arnolphus Lexoniensis Archiepiscopus salutem in eo, per quem reges regnant.

TANTO tempestivius ac diligentius injunctam nobis Legationem duximus prosequendam, quanto periculiosior in tanto discrimine dilatio videbatur. Accincti itaque ad laborem suscepti itineris Regem Francorum adivimus, blandissimaque salutatione præmissa ipsius prævenientes offensam, nulla cautela potuimus vestræ salutationis extorquere responsum. Singulos nostræ Legationis articulos explicavimus seriatim, commoda pacis, et incommoda diffensionis frequentius inculcantes. Ipse vero verbum nostrum in omnibus, sola salutatione excepta, patienter admisit. Expedito itaque diligenter nostræ Legationis excursu, spatio modici temporis interjecto contumeliose cœpit nobis fraudes et versutias exprobrare, quibus se conquerebatur sæpissime circumventum. Dicebat, quod fidem inter vos mutuo compromissam frequenter occasione levissima violastis: vosque in omnibus adeo exhibuistis instabilem, quod non adhibebit de cætero vobis fidem. Non sit vobis, Rex illustrissime, onerosum, si quod audivimus loquimur. Hæc est enim nuntiorum conditio, ut de injuncto sibi mandato nil subliceant, nil rescindant, vel diminuunt de

de responſo. Addebat etiam, ſe firmiſſimum habuiſſe propoſitum expugnandi vos, antequam Car-notum filius veſter adventaſſet: iſtaſque occaſiones diſſenſionis et odii proponebat, quod filiam ſuam ad virum ſuum redire non finitis, quod ei dotem ejus non redditis, quod ſubditos ſuæ ditioni populos a montibus Alvernæ uſque ad Rhodanum in ipſius odium concitaſtis, quod in coronæ ſuæ diſpendium Comitem S. Egidii in ligium hominem recepitiſtis: tandem etiam juramento firmavit, ſe nunquam de cætero vobiſcum foedus, aut concordiam habiturum, niſi de veſtræ uxoris et filiorum veſtrorum aſſenſu. Nunc igitur in cuſtodiendis munitionibus veſtris, et potiſſime in corporis veſtri tutela conſilio eſt utendum. Comuni enim voto in exitium veſtrum tota Francia conſpiravit. Nec ſatis eſt ei exterminare terræ faciem igne et gladio; ſed in veſtram perſonam (quod abſit) ſcelus execrabile machinatur. Conſulimus ſane, ſi qua abſtuliti, ſi læſiti aliquem, ablata reſtituere, et odia reformare in gratiam. Hoc enim inimicos veſtros potiſſime invitāt ad pugnam, quod inteſtinos hoſtes ſentiunt vos habere: et qui vobiſcum dulces capiunt cibos data opportunitate magnificabunt ſuper vos ſupplantationem. Maledictus qui confidit in homine, et ponit carnem fortitudinem brachii ſui. Quid eſt amabilius filiis? quid uxore familiarius? reſceſſit tamen uxor a latere veſtro, et filii inſurgunt in patrem. Ideo non fruſtatorie loquebatur hic ille hominum prudentiſſimus, qui dicebat, Amico ne credas: ab ea quæ dormit in ſinu tuo, cuſtodi clauſtra oris tui. Filius enim contumeliam facit patri: et inimici hominis domeſtici ejus. Sane ſuffragia illius imploranda cenſemus, in cujus manu ſunt corda Regum. In ejus nomine parvitati David Goliæ ſubjacuit magnitudo. In ejus nomine Samaria adeo fame conſecta obſidente Benadab, quod

quod triginta argenteis caput asini vendebatur, sub ictu oculi liberata est, exuberantique victualium affluentia redundavit: in eo siquidem sperans non infirmabitur. Si exurgat adversus vos prælium, in hoc sperate. Si exurgant adversus vos castra, non timebit cor vestrum: ipse enim docebit manus vestras ad prælium. Accipite vobis in auxilium preces Ecclesiæ: quam, si in aliquo offendistis, debita satisfactione impensa ei de cætero omnem reverentiam exhibete. Sponsa enim CHRISTI est; et injurias sponsæ CHRISTUS reputat suas, nec est, quod magis hostes vestros incitat ad conflictum, quam quod arbitrantur vos ecclesiæ DEI minus extitisse devotum. Bene valeat carissimus Dominus noster, & de his qui se contra eum in superbia & abusione erigunt reportet in virtute Altissimi gloriam & triumphum.

This and the
next refer to
p. 151. of
this vol.

N° V.

Petrus Blesensis, Epist. cxxxvi. p. 245, &c.

Sanctissimo Domino suo Alexandro, Dei Gratia, Catholicæ Ecclesiæ summo Pontifici, H. Rex Angliæ, Dux Normanniæ & Aquitaniæ, Comes Andegaven. & Cenoman. salutem & devotæ subjectionis obsequium.

IN magnorum discriminum angustiis, ubi domestica consilia remedium non inveniunt, eorum suffragia implorantur, quorum prudentiam in altioribus negotiis experientia diuturnior approbavit. Longè lateque divulgata est filiorum meorum malitia, quos ita in exitium patris spiritus iniquitatis armavit, ut gloriam reputent & triumphum patrem persequi,

persequi, & filiales affectus in omnibus diffiteri, præveniente meorum exigentia delictorum. Ubi plenior voluptatem contulerat mihi Dominus, ibi gravius me flagellat; &, quod sine lacrymis non dico, contra sanguinem meum & viscera mea cogor odium mortale concipere, & extraneos mihi quærere successores. Illud præterea sub silentio præterire non possum, quod amici mei recesserunt à me, & domestici mei quærunt animam meam. Sic enim familiarium meorum animos intoxicavit clandestina conjuratio, ut observantiæ proditoriae conspirationis universa posthabeant. Malunt namque meis adhærere filiis contra me transfugæ & mendici, quàm regnare mecum, & in amplissimis dignitatibus præfulgere. Quoniam ergo vos extulit Deus in eminentiam officii Pastoralis ad dandam scientiam salutis plebi ejus, licet absens corpore, præsens tamen animo, me vestris advolvo genibus, consilium salutare deposcens. *Vestræ jurisdictionis est regnum Angliæ, & quantum ad fuditarium juris obligationem, vobis duntaxat obnoxius teneor, & astringor.* Experiat Anglia, quid possit Romanus pontifex, & quia materialibus armis non utitur, *patrimonium B. Petri* spiritali gladio tueatur. Contumeliam filiorum poteram armis rebellibus propulsare, sed patrem non possum exuere: nam &, Jeremia testante, nudaverunt laminae mammas suas, lactaverunt catulos suos. Et licet errata eorum quasi mentis efferatæ me fecerint, retineo paternos affectus, & quandam violentiam diligendi eos mihi conditio naturalis importat. Utinam saperent, & intelligerent, ac novissima providerent. Lactant filios meos domestici hostes, & occasione malignandi habita non desistunt, quousque redigatur virtus eorum in pulverem, & converso capite in caudam servj eorum dominantur eis, juxta verbum illud Salomonis, Servus astutus filio dominabitur

BOOK IV. *nabitur imprudenti. Excitet ergo prudentiam vestram spiritus consilii, & convertatis corda filiorum ad patrem. Cor enim patris pro beneplacito vestro convertetur ad filios, & in fide illius, per quem reges regnant, vestræ magnitudini promitto, me dispositioni vestræ in omnibus pariturum. Vos Ecclesiæ suæ, pater sancte, diu CHRISTUS fervet incolumem.*

Radv. Frisingens. App. ad Ottonem de Rebus gestis Fred. I. Imp. l. i. p. 263.

IBIDEM tunc affuere etiam Henrici regis Angliæ missi, varia & preciosa donaria multo lepore verborum adornata præsentantes. Inter quæ papilionem unum quantitate maximum, qualitate bonissimum perspeximus. Cujus si quantitatem requiris, non nisi machinis, & instrumentorum genere, & adminiculo levare poterat: si qualitatem, nec materia, nec opere ipsum putem aliquando ab aliquo hujusce apparatu superatum iri. Literas quoque mellito sermone plenas pariter direxerat. Quarum hic tenor fuit: *Præcordiali amico suo Friderico, Dei gratia, Romanorum Imperatori invictissimo, Henricus rex Angliæ, dux Normanniæ & Aquitaniæ, & comes Andegavensis, Salutem & veræ dilectionis concordiam.* Excellentiæ vestræ quantas possumus referimus grates, dominantium optime, quod nos nunciis vestris visitare, salutare literis, muneribus prævenire, & quod his charius amplectimur, pacis & amoris invicem dignati estis fœdera inchoare. Exultavimus & quodammodo animum nobis crescere, & in majus sensimus evehi, dum vestra promissio, in qua nobis spem dedistis in disponendis regni nostri negotiis, alacriores nos reddidit, & promptiores. Exultavimus, inquam, & tota mente magnificentiæ

magnificentiae vestrae assurreximus, id vobis in fin-
 cerno cordis affectu respondentem, quod quicquid ad
 honorem vestrum spectare noverimus, pro posse
 nostro effectui mancipare parati sumus. *Regnum
 nostrum, & quicquid ubique nostrae subicitur ditioni
 vobis exponimus, & vestrae committimus potestati, ut
 ad vestrum nutum omnia disponantur, & in omnibus
 vestri stat voluntas imperii.* Sit igitur inter nos &
 populos nostros dilectionis & pacis unitas indivisa,
 commercia tuta: *ita tamen ut vobis, qui dignitate
 praeeminetis, imperandi cedat auctoritas, nobis non
 deerit voluntas obsequendi.* Et sicut vestrae serenita-
 tis memoriam vestrorum excitat in nobis munerum
 largitio, sic vos nostri quoque reminisci praeop-
 tamus, mittentes quae pulchriora penes nos erant,
 & vobis magis placitura. Attendite itaque dantis
 affectum, non data, & eo animo quo datur exci-
 pite. De manu beati Jacobi *, super qua nobis
 scripsistis, in ore magistri Heriberti & Guilhelmi
 clerici nostri verbum posuimus. Teste Thoma Can-
 cellario apud Norhant,

* This seems to have been a relic which the emperor had
 desired, but which Henry would not send him, either because he
 suspected it not to be a true one, or because the church or con-
 vent to which it belonged refused to part with it, and he did not
 think it proper to force it from them.

This refers to
p. 213. of
this vol.

Nº VI.

Rymeri Fœdera, Tom. I. p. 37.

Hæc est concordia quæ facta est inter Regem & filios suos.

A. D. 1174.
An. 20 H. II.
Ex Orig. in
Biblioth.
Cotton.

I. **N**OTUM sit omnibus tam præsentibus quam futuris, quod pax inter Dominum H. Regem Angliæ & filios ejus, Henricum videlicet Regem, & Ricardum, & Gaufridum, in hunc modum, Deo volente, reformata est:

2. Henricus Rex, & fratres sui prædicti, ad patrem suum & servitium ejus, sicut ad dominum suum, redierunt liberi & absoluti ab omni juramento & inprisa, quam inter se, vel cum aliis, fecerant contra eum & homines suos.

3. Et omnes barones & homines, qui a fidelitate patris, causa eorum recesserant, clamaverunt quietos ab omni juramento, quod eis fecerant, & ita liberi & quieti ab omni juramento & absoluti ab omni conventionem, quam eis fecerant, in dominium et ligeantiam Domini Regis redierint.

4. Et Dominus Rex debet rehabere, ipse, & barones, & homines sui, omnes terras suas, & castella sua, quæ habuerunt xv dies antequam filii sui recederent ab eo. Similiter barones & homines sui qui recesserunt ab eo, & secuti sunt filios suos, debent rehabere terras suas, quas habuerunt xv diebus antequam ipsi ab eo recederent; & Dominus Rex remisit omnem malevolentiam baronibus & hominibus suis, qui recesserant ab eo, ita quod, propter hoc, nullum malum eis faciet quamdiu ei fideliter servient, sicut ligio Domino suo.

5. Et

5. Et Rex filius ejus similiter pardonavit omnibus, tam clericis, quam laicis, qui cum patre fuerunt, omnem malevolentiam suam; & adsecuravit, in manu Domini Regis patris sui, quod illis, qui servierint ei, nec malum, nec dampnum aliquod, hac de causa, faciet vel perquiret in tota vita sua.

6. Et Dominus Rex, per hanc conventionem, donat Regi filio suo duo castella idonea in Normannia, ad voluntatem ipsius patris; & singulis annis xv millia librarum Andegavensium: Et Ricardo filio suo in Pictavia duo receptacula idonea, unde Domino Regi non possit dampnum provenire; & medietatem reddituum Pictaviæ in denariis: Gaufrido vero filio suo dat in Britannia, in denariis, medietatem reddituum maritagii filiae Comitis Conani, quam ducere debet in uxorem, & postquam, concessione Ecclesiæ Romanæ, eam in uxorem duxerit, habebit omnes redditus illius maritagii, sicut continetur in carta Comitis Conani.

7. Prisiones vero, qui cum Domino Rege finem fecerunt ante pacem factam cum Domino Rege, viz. Rex Scotiæ, & Comes Leicestriæ & Comes Cestriæ, & Radulphus de Fulgeriis, & obsides eorum, & obsides aliorum prisonum, quos prius habuerat, sint extra conventionem istam. Alii autem prisiones ex utraque parte deliberari debent; ita scilicet quod Dominus Rex obsides accipiet de prisonibus suis, de quibus habere voluerit, & qui dare poterunt: & de aliis habebit securitatem per fidem & juramentum suum, & amicorum suorum.

8. Castella vero, quæ firmata sunt, vel infortiata, postquam guerra incepit in terra Domini Regis, pro voluntate sua debent redigi ad illum statum, in quo fuerunt xv diebus ante gwerram.

9. Præterea sciendum est quod Rex H. filius Regis concessit Domino Regi patri suo, se firmiter observaturum omnes donationes eleemosinarum quas

dederat vel daturus erat de terris suis, & donationes terrarum quas dederat hominibus suis, vel daturus erat pro servitio suo.

10. Concessit etiam se firmiter & inconcusse observaturum donationem quam Dominus Rex, pater suus, fecit Johanni fratri suo, viz. mille libratas reddituum in Anglia de dominico suo, & de escaetis suis, ad voluntatem suam: Et castellum de Nottingham, cum comitatu & pertinentiis suis: Et castellum de Merliberga cum pertinentiis suis: Et in Normannia mille libras Andegavensium, & duo castella ad voluntatem patris: Et in Andegavia, et in terra quæ fuit Comitis Andegaviæ, mille libras reddituum Andegavensium; & castellum unum in Andeg. & unum in Cenomania, & unum in Turonia.

11. Concessum est autem a Domino Rege, pro amore filii sui, quod omnes illi qui recesserant ab eo post filium suum, & in recessu suo forisfecerant in terra Domini Regis, ad pacem ejus revertantur; ita quod de catallis, quæ asportaverunt recessu suo, non respondeant; de morte vero, vel proditione, vel perditione alicujus membri, respondeant secundum judicium & consuetudinem terræ: qui autem ante gwerram, quacunque de causa, aufugerant, & ad servitium filii sui venerunt, pro amore filii sui ad pacem revertantur, si vadium & plegium dederint standi judicio de hiis, quæ ante gwerram fores fuerunt.

12. Illi autem, qui in placito erant quando recesserunt ad filium suum, revertantur; ita quod in eo statu placiti sui sint, in quo erant quando recesserunt.

13. Hanc conventionem firmiter tenendam ex parte sua assecuravit H. Rex filius Regis in manu Domini Regis patris sui. Præterea assecuraverunt H. filius Regis, & fratres sui, quod a Domino Rege
patre

patre suo nunquam amplius exigent, ultra donationem præscriptam & determinatam, contra voluntatem & bene placitum Domini Regis patris sui; & quod neque se, neque servitia sua, patri suo subtraherent.

14. Ricardus vero & Gaufridus, filii Domini Regis, devenerunt homines ejus de his, quæ eis concessit & dedit.

Cum autem filius ejus Henricus homagium ei facere voluisset, noluit Dominus Rex recipere, quia Rex erat; set securitatem accepit ab eo.

Testibus,

R: Rothomag. Archiepiscopo.

Henrico Baioc. Episcopo.

Rogero Sag. Episcopo.

R: Nannet Episcopo.

Steph. Rhedon. Episcopo.

G: Electo Lincoln.

Jo. Decano Sarum.

Ric. de Humez Constabulario.

Ric. de Bellemonte Vic.

Regin. de Curten.

Mor. de Creona.

Willielmo Malo-vicino.

W. de Hum.

Gaufrido Pertic.

Willielmo de Curci.

Fulch. Saenell.

Jo. de Solineio.

Saher de Quinci.

Ric'o de Canvill.

W. filio Andell Senescallo.

Alvr. de Sancto Martino Dapifero.

Gosberto de Siffencio.

Rob. filio Ernisi.

Eudde filio Ern.

Waltero de Ypra.

C c 2

Willielmo

APPENDIX TO THE LIFE

Willielmo Marefcallo.

Roberto de Ble.

Eimerio filio Endon.

Apud Faleriam.

Sub figillo pendente, cui imprimitur imago
Regis in folio fedentis, & finiftra manu
gerentis fceptrum.

This refers to
p. 220. of
this vol.

N^o VII.

Rymeri Fædera, Tom. I. p. 39.

*Hæc eft Conventio et Finis, quem Will. Rex Scotorum
fecit cum Domino fuo Henrico Rege, filio Matildis.*

A. D. 1174.

An. 20 H. II.

Ex magno

Rotulo penes

Camer.

WILLIELMUS Rex Scotorum devenit
homo ligius Domini Regis contra omnem
hominem de Scotia, et de omnibus aliis terris fuis,
et fidelitatem ei fecit, ut ligio Domino fuo, ficut
alii homines fui ipfi facere folent, et fimiliter fecit
homagium Henrico Regi filio fuo, falva fide Do-
mini Regis patris fui.

Omnes vero Epifcopi, et Abbates, et Clerus
terræ Regis Scotiæ, et fucceffores fui facient Do-
mino Regi, ficut ligio Domino, fidelitatem de qui-
bus habere voluerit, ficut alii Epifcopi fui ipfi facere
folent, et Henrico Rege filio fuo, et hæredibus
fuis.

Conceffit autem Rex Scotiæ, et David frater
fuus, et Barones et alii homines fui Domino Regi,
quod Ecclefia Scoticana talem fubjectionem amodo
faciet Ecclefie Anglicanæ, qualem illi facere debet
et solebat tempore Regum Angliæ prædecefforum
fuorum. Similiter Richardus Epifcopus Sancti
Andreæ, et Ricardus Epifcopus de Dunkeldyn, et
Galfridus

Galfridus Abbas de Dumfermelyn, et Herbertus Prior de Coldingham concesserunt quod etiam Ecclesia Anglicana illud jus habeat in Ecclesia Scotiæ, quod de jure habere debet, et quod ipsi non erunt contra jus Ecclesiæ Anglicanæ.

Et de hac concessione, sicut ligiam fidelitatem Domino Regi et Henrico filio suo fecerunt, et eos inde affecuraverunt; ita hoc idem facient alii Episcopi et Clerus Scotiæ per conventionem inter Dominum Regem, et Regem Scotiæ et David fratrem suum et Barones suos factam.

Comites etiam et Barones, et alii homines de terra Regis Scotiæ, de quibus Dominus Rex habere voluerit, facient ei homagium contra omnem hominem, et fidelitatem, ut ligio Domino, sicut alii homines sui facere solent, et Henrico Regi filio suo, et hæredibus suis, salva fide Domini Regis patris sui: similiter hæredes Regis Scotiæ et Baronum et hominum suorum homagium et ligeantiam facient hæredibus Domini Regis contra omnem hominem.

Præterea Rex Scotiæ et homines sui nullum amodo fugitivum de terra Domini Regis pro feloniam receptabunt in Scotia vel in alia terra sua (nisi voluerit venire ad rectum in curia Domini Regis, et stare judicio curiæ); set Rex Scotiæ et homines sui quam citius poterunt eum capient, et Domino Regi reddent, vel Justiciariis, aut Ballivis suis in Anglia.

Si autem de terra Regis Scotiæ aliquis fugitivus fuerit pro feloniam in Anglia (nisi voluerit venire ad rectum in curia Regis Scotiæ, vel in curia Domini Regis, et stare judicio curiæ) non receptabitur in terra Domini Regis; set liberabitur hominibus Regis Scotiæ per Ballivos Domini Regis ubi inventus fuerit.

BOOK IV. Præterea homines Domini Regis habebunt terras suas, quas habebant, et habere debent, de Domino Rege, et de Rege Scotiæ, et de hominibus suis; et homines Regis Scotiæ habebunt terras suas quas habebant, et habere debent, de Domino Rege, et de hominibus suis.

Pro ista vero conventionem et fine firmiter observando Domino Regi, et Henrico filio suo, et hæredibus suis, a Rege Scotiæ, et hæredibus suis, liberavit Rex Scotiæ Domino Regi castellum de Rockesburg, et castellum de Berwick, et castellum de Gedeworthe, et castellum Puellarum, et Castellum de Stryvelyn, in misericordia Domini Regis; Et ad custodienda castella illa assignabit Rex Scotiæ, de redditu suo, mensurabiliter ad voluntatem Domini Regis.

Præterea pro prædicta conventionem et fine exequendo liberavit Rex Scotiæ Domino Regi David fratrem suum in obsidem, &

Comitem Duncanum et
Comitem Waldenum et
Comitem Gilbertum et
Comitem Aneguz et
Ricardum de Moreville Constabularium
Niz filium Willielmi et
Ricardum Comyn et
Walterum Corbet et
Walterum Olyfard et
Johannem de Valz et
Willielmum de Lyndeseye et
Philipum de Colville et
Philipum de Valoignes et
Robertum Frembert et
Robertum de Burneville et
Hugonem Gyffard et
Hugonem Rydal et

Walterum

Walterum de Berkele et

Williellmum de la Haye et

Williellmum de Mortemer.

Quando vero castella reddita fuerint, Williellmus Rex Scotiæ et David frater suus liberabuntur. Comites quidem et Barones prænominati, unusquisque postquam liberavit obsidem suam, scilicet filium legitimum quem habuit, et alii nepotes suos, vel propinquiores sibi hæredes, et Castellis, ut dictum est, redditis, liberabuntur.

Præterea Rex Scotiæ et Barones sui prænominati asscuraverunt, quod ipsi, bona fide, et sine malo ingenio, et sine occasione, facient quod Episcopi, et Barones, et homines terræ suæ, qui non affuerunt quando Rex Scotiæ cum Domino Rege finivit, eandem ligeantiam et fidelitatem Domino Regi et Henrico filio suo facient, quam ipsi fecerunt, et quod Barones et homines, qui affuerunt, obsides liberabunt Domino Rege de quibus habere voluerit.

Præterea Episcopi, Comites et Barones conventionaverunt Domino Regi, et Henrico filio suo, quod, si Rex Scotiæ aliquo casu a fidelitate Domini Regis et filii sui, et a conventionem prædictam recederet, ipsi cum Domino Rege tenebunt, sicut cum ligio Domino suo, contra Regem Scotiæ, donec ipse ad fidelitatem Domini Regis redeat.

Prædictam itaque conventionem firmiter observandum bona fide, et sine malo ingenio, Domino Regi, et Henrico filio suo, et hæredibus suis, a Williellmo Rege Scotiæ, et David fratre suo, et a Baronibus suis prædictis, et ab hæredibus eorum, asscuravit ipse Rex Scotiæ, David frater suus, et omnes Barones sui prænominati, sicut ligii homines Domini Regis contra omnem hominem, et Henrici filii sui, salva fidelitate Domini Regis patris sui,

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Hiis Testibus,

Ricardo Episcopo Abricen.

Johanne Saresberien. Decano.

Roberto Abbate Malmsbur.

Randulpho Abbate de Mondesburgh.

Herberto Archidiacono Northampton.

Waltero de Constanciis.

Rogerio Capellano Regis.

Osberto Clerico de Camera.

Ricardo filio Domini Regis, Comite
Pictaviæ.Galfrido filio Domini Regis, Comite
Brytanniæ.

Comite Willielmo de Essex.

Hugon. Comite Cestriæ.

Ricardo Humez Constabulario.

Comite de Millenc.

Jordano Cosson.

Humfrido de Bohun.

Willielmo de Curcy Senescallo.

Gilberto Malet Senescallo.

Apud Falēgiam.

* * I have corrected two or three words in this treaty, which are manifestly errors of the press in the copy which Rymer has given us of it. These corrections are agreeable to another copy of them in Benedictus Abbas, Hearne's Edition, t. i. ad ann. 1175.

N° VIII.

BOOK IV.

This refers to
p. 256. of
this vol.

Benedict. Abb. t. ii. p. 123, 124, 125. Brompton's Chronicle, col. 1106, 1107. Hoveden, ad ann. 1175.

HÆC est finis & concordia facta apud Winde- A.D. 1175.
fore in octavis sancti Michaelis anno ab incarnatione Domini M.C.lxxv. inter Henricum regem Angliæ & Rodoricum regem Connactensem, per Catholicum archiepiscopum Tuamensem, Cantordem abbatem Sancti Brendani, & magistrum Laurentium cancellarium regis Connactensis; scilicet, Quod rex Angliæ Henricus concedit prædicto Rodorico ligio hominini suo quamdiu ei fideliter serviet, quod sit rex sub eo, paratus ad servitium suum, sicut homo suus, & quod terram suam teneat ita bene & in pace sicut tenuit antequam Dominus rex Angliæ Hyberniam intravit, reddendo ei tributum. Et totam aliam terram & habitatores terræ habeat sub se, & justiciet, ut tributum regi Angliæ integre per manum ejus persolvant, & sua jura sibi conservent. Et illa quæ modo tenent, teneant in pace quamdiu permanserint in fidelitate regis Angliæ, & ei fideliter & integre persolverint tributum & alia jura sua quæ ei debent, per manum regis Conactæ, salvo in omnibus jure & honore Domini regis Angliæ & suo. Et si qui ex eis regi Angliæ & ei rebelles fuerint, & tributum & alia jura regis Angliæ per manum suam solvere noluerint, & a fidelitate regis Angliæ recesserint, ipse eos justiciet & amoveat; & si eos per se justiciare non poterit, constabularius regis Angliæ & familia sua de terra illa juvabunt eum ad hoc faciendum, cum

BOOK IV. ab ipso fuerint requisiti, & ipsi viderint quod necesse fuerit. Et propter hunc finem reddet prædictus rex Conactæ Domino Regi Angliæ tributum, scilicet de singulis x animalibus unum corium placabile mercatoribus, tam de tota terra sua quam de alia, excepto quod de terris illis quas dominus rex Angliæ retinuit in dominio suo, & in dominio baronum suorum, nichil se intromittet; scilicet Duvelina cum omnibus pertinentiis suis, & Mida cum omnibus pertinentiis suis, sicut unquam Murchatva Melachlyn eas melius & plenius tenuit, aut aliqui qui de eo eam tenuerunt. Et excepta Wesefordia usque ad Duncarvan; ita quod Duncarvan sit cum omnibus pertinentiis suis infra terram illam. Et si Hybernenses qui aufugerunt redire voluerint ad terram baronum regis Angliæ, redeant in pace, reddendo tributum prædictum sicut alii reddunt, vel faciendo antiqua servitia quæ facere solebant pro terris suis: & hoc sit in arbitrio & voluntate dominorum suorum. Et si aliqui redire noluerint ad dominum eorum regem Conactæ, ipse cogat eos redire ad terram suam, ut ibi maneant & pacem habeant. Et rex Conactæ accipiat obsides ab omnibus quos ei commisit rex Angliæ ad voluntatem domini regis & suam, & ipse dabit obsides ad voluntatem domini regis Angliæ illos vel alios, & ipsi servient Domino regi Angliæ de canibus suis & avibus suis singulis annis de præsentiis suis, & nullum omnino, de quacunque terra domini regis sit, retinebunt contra voluntatem & mandatum domini regis. Testibus hiis,

Ricardo Episcopo Wyntonjæ.

Gaufr. Episcopo Elyensi.

Laurentio Duvelienfi Archiepiscopo.

Gaufr. & Nichol. & Rog. Capellani regis.

Willielmo Comite Essexiæ.

Ricardo de Luci.

Gaufr.

Gaufr. de Pertico.

Reginaldo de Courteneia.

* * This convention between King Henry the Second and Roderick king of Conaught is published in Rymer's *Fœdera*, p. 41. not from any record, but from a manuscript copy of the history of Benedictus Abbas in the Cotton Library. It appears to be faulty in some parts, which are here corrected by Hearne's edition of that author from a manuscript in the Harleian collection; and by two other copies, in Roger de Hoveden, and Brompton's Chronicle.

N^o IX.

This refers to
p. 261. of
this vol.

In Bibl. Cotton. Claudius, B. II. f. 212. b.

HANC computationem presentaverunt Pictavenſes cardinalibus; quando St. Thomas exulabat, ſed non ſunt auditi.

Sic computati ſunt gradus cognationis inter Regem Anglorum & Reginam. Guill. Rex Anglorum & Robertus comes Moritonii uterini fratres fuerunt. De Wilielmo natus eſt Henricus. De Henrico Matildis imperatrix. De Matildi Rex Henricus. Item de Roberto comite nata eſt Beatrix comitiſſa Pictavenſis. De Beatrice Will. comes. De Wilielmo comite Alienor Regina.

* * By this it appears that Henry and Eleanor were third couſins of the half blood. Louis and ſhe were fourth couſins of the whole blood.

BOOK IV.

This refers to
p. 265. of
this vol.

N^o X.

Diceto Imag. Hist. col. 591, 592,

Domino Papæ Rex Anglorum.

PROPTER reverentiam sanctæ Romanæ Ecclesiæ, atque devotionem, quam erga eam, & paternitatem ac dilectionem vestram, & fratrum vestrorum, habemus, & semper habuimus, *licet plurimum resisterent & reclamarent regni nostri majores & magis discreti*, ad instantiam viri discreti & sapientis, Hugonis Petrileonis, sanctæ Romanæ Ecclesiæ cardinalis, Apostolicæ sedis legati, amici & cognati nostri, capitula quæ subscripta sunt in regno nostro tenenda concessimus; videlicet, quod clericus de cætero non trahatur ante judicem secularem in persona sua, de aliquo criminali, neque de aliquo forisfacto, excepto forisfacto forestæ meæ, & excepto laico feodo unde mihi vel alio domino seculari laicum debetur servitium. Concedo etiam quod archiepiscopatus, episcopatus, & abbatia, non teneantur in manu mea ultra annum, nisi urgente necessitate, & evidenti de causa, quæ propter hoc non fuerit inventa, ut diutius teneantur. Concedo etiam quod interfectores clericorum, qui eos scienter, vel præmeditatè, interfecerint, convicti vel confessi coram justiciario meo, præsentè episcopo vel ejus officiali, *præter consuetam laicorum vindictam**, suam & suorum de hæreditate quæ eos contingit perpetuam sus-

* I know not what to make of these words; for, that all felonies were attended with a forfeiture of the inheritance of the felon convicted, appears from Glanville, l. vii. c. 17. p. 59.

tineant

tineant exhæreditationem. Concêdo etiam quod BOOK IV.
clerici non cogantur facere duellum.

N° XI.

Records relating to Itinerant Justices, from This refers to
Madox's History of the Exchequer, page p. 270. of
this vol.
100, 101, 102, 98, 99.

ROBERTUS filius Toli debet xxx marcas Taken from
argenti, de placitis G. de Clinton. *Mag.* p. 100.
*Rot. 5 Steph. Rot. 1. b. Not. & Dereb.**

Sueinus de Porta debet Cs, de placitis Radulfi Basset. *Ib. paul. inf.*

Et de. x marcis argenti, de placitis G. de Clinton. *Ib. Rot. 2. a Wiltescira.* Hubertus de Wiltona r. c. de Lxijl, de placitis Radulfi Basset pro thesauro. *Ib. paul. infr.*

Homines Willelmi de Warennâ debent Lx marcas argenti, de placitis Eustatii filii Johannis. *Ib. Rot. 3. a. Everwicscira.* Burgenfes de Evervic r. c. de xxiiijl & xiijs & iiij d, de placitis G. de Clinton & Soc. ejus. *Ib. Rot. 3. a.* Accha fil. Ernebrandi r. c. de v marcis argenti, de placitis W. Espec & Eustachii filii Johannis; in operibus Regis de Everwic liberavit, et quietus est. *Ib. Rot. 3. a. Everw.*

Hugo filius Eudonis r. c. de xxs, de placitis W. Espec Eustachii filii Johannis. *Ib. Rot. 3. b. Northumb.*

* The great roll here cited as the fifth of King Stephen has been proved to belong to the eighteenth year of King Henry the First. See Madox, *Dissertatio Epistolaris de Magno Rotulo Scaccarii*, at the end of his *History of the Exchequer*.

Robertus

BOOK IV.

Robertus & Alwoldus de Lectona r. c. de v mar-
cis argenti, de placitis G. de Clint. *Ib. Rot. 5. a.*
Hunted.

Et idem Vic. r. c. de Lxviij s, de placitis G. de
Clint. *Ib. Rot. 5. b. Sudreia.*

Aluredus Clericus præpositus de Stanford r. c.
de j marca argenti, de placitis G. de Clint. *Inth. l.*
Et Q. e. *Ib. Rot. 6. a. Essex.*

Gaufridus de Ou r. c. de j marca argenti, de
placitis Ricardi Basset. *Ib. Rot. 6. b. Heortford-*
scira.

Et idem Vic. r. c. de xvij l & iij s & iij d, de
placitis G. de Clint. de juratoribus comitatus. In
thesauro xvi l & iij s & iij d. *Ib. Rot. 7. a. Chent.*

P. 101.

Burgenfes de Doura debent Lx marcas argenti,
de placitis Henrici de Port. & Soc. ejus. *Ib. Rot.*
7. a. jux.

Et idem Vic. r. c. de xx marcis argenti, de pla-
citis Ricardi Basset. *Ib. Rot. 7. b. Sudsexa*——
de placitis G. de Clint. de juratoribus Comitatus.
Ib. Rot. 7. a. in imo. Sudsexa.

Hugo Malus Vicinus r. c. de iij marcis argenti,
de placitis G. de Clint. *Ib. Rot. 8. a. Staff.* Et
idem Gotfo [Dapifer] r. c. de v marcis argenti, de
placitis Milonis Gloec. & Pagani filii Johannis.
Ib. Rot. 8. a. Staff.

Gislebertus de Miner. r. c. de v marcis argenti,
de placitis Milonis Gloec. & Pagani filii Johannis.
Ib. Rot. 8. a. Glocestrescira.

Robertus de Strapetona r. c. de xxxiij s & iij d,
de Placitis G. de Clint. *Ib. Rot. 9. a. Northampt.*
Brichtwius Presbiter r. c. de x marcis argenti, de
placitis Ricardi Basset. *Ib. Rot. 9. b. Legrec.*

Radulfus de Carun r. c. de iij l & xiij s & iij d,
de placitis G. de Clint. *Ib. Rot. 10. a. Nortfolc.*
Fulcherus Ruffus r. c. de xls, de plac. Ricardi
Basset. *Ib. infra.*

Ricardus

Ricardus Esturmit r. c. de ij marcis argenti, de placitis Ricardi Basset. Fulchardus præpositus de Tietford debet xxxvi & ijs & viijd, de placitis G. de Clint. *Ib. Rot. 10. b. Sudf.*

Et idem Vicecomes r. c. de Lvijs & vjd, de veteribus placitis Radulfi Basset. In th l. Et Q. e. Et idem Vic. r. c. de xls, de placitis G. de Clint. de iudicibus Burgi de Buchingham. In th l. & Q. e. *Ib. Rot. 11. a. Buching.* Et idem Vic. r. c. de xls, de placitis G. de Clint. de juratoribus & minutis hominibus Comitatus. *Ib. Rot. 11. a. Bedf.*

Goisbertus Dapifer Rogeri de Molbrai r. c. de j marca argenti, de placitis G. de Clint. *Ib. Rot. 11. b. Warwic.*

Siwardus de Cantorp. r. c. de x marcis argenti, de placitis G. de Clint. Alanus de Creon r. c. de — marcis argenti, pro hominibus suis, de placitis W. de Albin. Alanus filius Joheli Linc. debet Cs, de placitis Radulphi Basset. *Ib. Rot. 12. a. Linc.* Et idem Vic. r. c. de Lxxiiij marcis argenti & dim. de placitis Ricardi Basset de minutis hominibus. *Ib. Rot. 12. b. Linc.*

Peiffon homo Patricii de Cadurc. debet x marcas argenti, de placitis G. de Clint. dum custodivit terram Patricii. *Ib. Rot. 13. a. Berch.*

Et idem Vic. debet Lvs, de minutis placitis W. Espec. & Eustachii filii Johannis. *Ib. Rot. 14. b. Chaerleolium.*

Et idem Vicecomes r. c. de vijl & vjs & viijd, de placitis Roberti Arundell & soc. ejus de Foresta. *Mag. Rot. 5 Steph. Rot. 2. a. Dorseta.*

Walterus Espec r. c. de CC marcis argenti de placito Cervi; In thesauro L marcas argenti, et debet Cl. *Ib. Rot. 3. b. Everwic.*

Et

BOOK IV. Et idem Vicecomes r. c. de xxvjs & viij d, de placitis G. de Clint. de Foresta. *Ib. Rot. 5. a. Hunted.*

Et idem Vicecomes r. c. de C & xxx marcis argenti, & dimidia de placitis W. de Albini & soc. ejus de Foresta. *Ib. Rot. 6. a. Essex.*

Gotso Dapifer debet xxv marcas argenti, de placitis Milonis Gloec. de Foresta de Episcopatu Cestriæ. *Ib. Rot. 8. a. Stafford.*

Ranulfus Parcarius r. c. de xxvi & j marca argenti, de placitis Radulfi Basset. *Ib. Rot. 10. a. Norfolk.*

Et idem Vicecomes r. c. de xl & iij s & iij d, de placitis Roberti Arundel del de Foresta. *Ib. Rot. 16. a. Devenesc.*

Et idem Vicecomes r. c. de xl & vs, de placitis Roberti Arundel & soc. ejus de Foresta. *Ib. Rot. 16. b. Cornualia.*

P. 102.

De placitis Comitibus Gaufridi & Ricardi de Luci. *Mag. Rot. 12 H. II. Rot. 1. a. Linc.*

Ib. Rot. 1. b. Buching. & Bedef.

Ib. Rot. 2. 3. Norf. & Suthf.

Ib. Rot. 3. b. Everwichsc.

Ib. Rot. 4. a. Not. & Derb.

Ib. Rot. 4. b.

Ib. Rot. 5. a. War. & Legrec.

Ib. Rot. 5. b. Norhumb.

Ib. Rot. 6. b. Cantabr. & Huntend.

Ib. Rot. 8. b. Surr.

Ib. Rot. 9. a. in imo Chent.

Ib. Rot. 10. a. Essex & Hertfortsc.

Ib. Rot. 6. b. Caerliolium.

Mag. Rot. 12 H. II. passim.

De placitis Comitibus Gaufridi & Ricardi de Luci de hominibus de Lenna. *Mag. Rot. 13 H. II. Rot. 3. a. Norf. & Suthf.*

De placitis of the same persons, ut supra. *Ib.* BOOK IV.
Rot. 3. b. Suthsexa.

De placitis, ut supra. *Ib. Rot. 4. a. Lincol-
 escira.*

De placitis ut supra. *Ib. Rot. 5. b. Northumberl.*

Ut supra; *Ib. Rot. 6. a. Everwich.*

Ut supra; *Ib. Rot. 7. a. Buching. & Bedf.*

Ut supra; *Ib. Rot. 8. a. Northantesc.*

Ut supra; *Ib. Rot. 9. b. Not. & Derb.*

Ut supra; *Ib. Rot. 10. b. Essex & Hurtf.*

Ut supra; *Ib. Rot. 11. a. War. & Legrec.*

Ut supra; *Ib. Rot. 11. a. Cant. & Hunt.*

Ut supra; *Ib. Rot. 13. a. Chent.*

Ut supra; *Ib. Rot. 13. b. Surr.*

De placitis Ricardi de Luci; *Ib. Rot. 11. b.
 Carleolium.*

Nova placita & novæ Conventiones de placitis
 Alani de Nevilla. *Mag. Rot. 13. H. II. Rot. a.
 Berrochescira.*

N. P. & N. C. de Placitis Alani de Nevilla.
Ib. Rot. 4. b. Lincol.

Ut supra; *Ib. Rot. 4. b. Staff.*

Ut supra; *Ib. Rot. 5. a. Salopescira.*

Ut supra; *Ib. Rot. 5. a. Winchestr.*

Ut supra; *Ib. Rot. 5. b. Heref. in Wallis.*

Ut supra; *Ib. Rot. 5. b. Northumb.*

Ut supra; *Ib. Rot. 6. b. Everwich.*

Ut supra; *Ib. Rot. 7. a. Buching. & Bedf.*

Ut supra; *Ib. Rot. 8. a. Northantescira.*

De placitis Alani de Nevilla. *Ib. Rot. 8. b.*

Rotel.

Ut supra; *Ib. Rot. 9. a. Wilt.*

Ut supra; *Ib. Rot. 9. b. Not. & Derb.*

Ut supra; *Ib. Rot. 10. a. Gloec.*

Ut supra; *Ib. Rot. 11. a. Cant. & Hunt.*

Ut supra; *Ib. Rot. 12. a. Hantescira.*

BOOK IV. Nova placita & novæ Conventiones de Forestis,
per Alanum de Nevilla. *Ib. Rot. 11. b. Devenescira.*

De placitis Archidiaconi Pictavenfis & Guidonis Decani & Reginaldi de Warennæ, & Willielmi Bassët. *Ib. Rot. 3. b. Effexa & Herfordscira.*

De placitis Widonis Decani de Waltham, & Willielmi Bassët, & Reginald de Warennæ. *Ib. Rot. 5. b. Lincol.*

De placitis Alani de Nevilla: Radulfus de Ferrariis debet x marcas, pro festinando iudicio suo de Ricardo Fabro, qui eum & homines suos appellavit de cervo quem eos capere vidit, postea se inde retraxit. *Ib. Rot. 9. b. Devenescira.*

P. 93.

De placitis Widonis Decani, & Willielmi Bassët, & Reginaldi de Warennæ. *Mag. Rot. 15 H. II. Rot. 1. b. Nicholescira.*

De placitis Archidiaconi Pictaviensis, & Widonis Decani, & Reginaldi de Warennæ, & ipsius Willielmi Bassët (who was sheriff that year of War. and Leic.) in Legercestrescira. Item de placitis eorundem in Warwicscira. *Ib. Rot. 2. b.*

Ib. Rot. 4. b.

Ib. Rot. 10. b.

De placitis Archidiaconi Pict. & Widonis Decani, & Reginaldi de Warennæ. *Ib. Rot. 12. b. Surreia. & ib. tit. Lundonia & Midd.*

De placitis Comitis Galfiridi & Ricardi de Luci. *Ib. Rot. 3. a. Evervicscira.*

Ib. Rot. 5. b.

De placitis Widonis Decani & Willielmi Bassët. *Ib. Rot. 5. b. Staff.*

De placitis Decani de Waltham, & Willielmi Bassët. *Ib. Rot. 8. a. Glowec,*

De placitis Archidiaconi Pictavenfis, & Widonis Decani, & Reginaldi de Warennæ, & Willielmi Bassët. *Ib. Rot. 7. b. Norf. & Sudf.* De placitis Comitis

Comitis Gaufridi, & Ricardi de Luci, de homini-BOOK IV.
bus de Lenna. *Ib. Rot. 7. a.*

De placitis Reginaldi de Warennæ & Johannis
Cumin in Sumerfeta. Placita eorundem in Dorseta.
Ib. Rot. 1. b.

Ib. Rot. 2. a.

De placitis Reginaldi de Warennæ, & Johannis
Cumin, Gervasii de Cornhill. *Ib. Rot. 2. b. Devenescira.*

In Mag. Rot. præd. anni 15. passim.

De placitis Comitis Galfridi & Ricardi de Luci
de hominibus de Lenna. De placitis Archidiaconi
Pictaviæ, & Widonis Decani, & Reginaldi de
Warennæ, & Willelmi Bassët. De placitis Widonis
Decani & Ogerii Dapiferi. *Mag. Rot. 16 H. II.
Rot. 1. a. & b. Norfolch & Sudfolch.*

De Placitis Archidiaconi Pictaviæ, & Reginaldi
de Warennæ, & Widonis Decani. *Ib. Rot. 1. b.
Lundonia & Middlesexa.*

De Placitis Comitis Galfridi & Ricardi de Luci.
Item de Placitis Archidiaconi Pictaviæ. De placi-
tis Alani de Nevill [for the Forest]. *Ib. Rot. 2. a.
Northamptonscira.*

De Placitis Willelmi Bassët & Alani de Nevill
junioris. De Placitis Roberti de Stutevill & Hu-
gonis de Morvill. Nova placita & novæ Conven-
tiones; de Placitis Alani de Nevill junioris [for the
Forest]. *Ib. Rot. 2. Carleolium.*

De Placitis Comitis Galfridi & Ricardi de Luci. P. 99.
De Placitis Alani de Nevill junioris & Willelmi
Bassët. *Ib. Rot. 3. a. Everwichscira.*

De Placitis Willelmi Bassët & Alani de Nevill
junioris. Placita Roberti de Stutevill & Hugonis
de Morvill. De Placitis Alani de Nevil junioris
[for the Forest]. *Ib. Rot. 3. b. Northumberland.*

De Placitis Alani de Nevill [for the Forest].
Item de Placitis Alani de Nevill. De Placitis Re-

BOOK IV. *Reginaldi de Warennā et Johannis Cumin. Ib. Rot. 4. a. et b. Wilt.*

De Placitis Alani de Nevill [for the Forest]. N. P. et N. C. De Placitis Alani de Nevill junioris. *Ib. Rot. 4. a. et b. Berockscira.*

De Placitis Alani de Nevill. De Placitis Widonis Decani et Willelmi Basset. De Placitis Alani de Nevill junioris. *Ib. Rot. 5. b. Gloec.*

De Placitis Alani de Nevill. De Placitis Willelmi Basset et Alani de Nevill junioris. *Ib. Rot. 6. a. Nottinch. et Derby.*

De Placitis Willelmi Basset et Alani de Nevill junioris. *Ib. Rot. 6. a. et b. Warwicsc. et Legrec.*

De Placitis Archidiaconi Pictaviæ, et Widonis Decani, et Reginaldi de Warennā, et Willelmi Basset. *Ib. Rot. 6. b. Cantebr. et Hunted.*

De Placitis Reginaldi de Warennā, et Johannis Cumin, et Gervasi de Cornhill. De Placitis Alani de Nevill [for the Forest]. *Ib. Rot. 7. a. Devenesc.*

De Placitis Archidiaconi Pictaviæ, et Guidonis Decani, et Reginaldi de Warennā, et Willelmi Basset. De Placitis Alani de Nevill [for the Forest]. *Ib. Rot. 8. a. Effexa et Hurtf.*

De Placitis Reginaldi de Warennā et Johannis Cumin. N. P. et N. C. De Placitis Alani de Nevill junioris. *Ib. Rot. 8. b. Dorseta et Sumers.*

De Placitis Archidiaconi Pictaviæ, et Reginaldi de Warennā, et Decani de Waltham, et Willelmi Basset. De Placitis Alani de Nevill [for the Forest]. *Ib. Rot. 9. a. Hantescira.* De Placitis Reginaldi de Warennā et Johannis Cumin. *Ib. Rot. 9. Civitas Wintoniæ.*

De Placitis Widonis Decani et Willelmi Basset. De Placitis Alani de Nevill [for the Forest]. De Placitis Ricardi de Luci. (These last I think were old Pleas, or Pleas of a former year.) *Ib. Rot. 9. b. Staff.*

De

De Placitis Archidiaconi Pictaviæ, et Guidonis Decani, et Reginaldi de Warrenna, et Willelmi Bassët. De Placitis Archidiaconi Pictaviæ et Widonis Decani. *Ib. Rot. 10. a. Sudsex.*

De Placitis Comitibus Galfridi et Ricardi de Luci. De Placitis Widonis Decani, et Reginaldi de Warrenna, et Willelmi Bassët. De Placitis Willelmi Bassët et Alani de Nevill. *Ib. Rot. 10. a. et b. Nicholeiscira.*

De Placitis Archidiaconi Pictaviæ, et Widonis Decani, Reginaldi de Warennæ, et Henrici filii Geroldi Camerarii. *Ib. Rot. 11. a. Chent.*

De Placitis Archidiaconi Pictavenfis, et Widonis Decani, et Reginaldi de Warennæ. De Placitis Alani de Nevill. *Ib. Rot. 11. b. Surreia.*

De Placitis Archidiaconi Pictavenfis, et Widonis Decani, et Reginaldi de Warennæ, et Willelmi Bassët. De Placitis Widonis Decani et Ogeri Dapiferi. *Mag. Rot. 17 H. II. a. Norf. et Sudf.*

De Placitis Archidiaconi Pictavenfis, et Reginaldi de Warrenna, et Decani de Waltham, Willelmi Bassët. *Mag. Rot. 17 H. II. Rot. 3. a. Hantescira.*

De Placitis Reginaldi de Warennæ et Johannis Cummin. *Ib. Rot. 3. b. Civit. Wintoniæ.*

Ib. Rot. 3. b.

De Placitis Willelmi Bassët et Alani de Nevill Junioris. *Ib. Rot. 4. a. Not. et Derb.*

De Placitis Ricardi de Luci. *Ib. Rot. 4. a.*

De Placitis Alani de Nevill junioris et Willelmi Bassët. *Ib. Rot. 5. a.*

Ib. Rot. 5. b. Northumbreland.

De Placitis Roberti Stutevill. *Ib. Rot. 5. b. Carleolium.*

De Placitis Widonis Decani et Willelmi Bassët. *Ib. Rot. 6. a. Glocestrescira.*

BOOK IV.

De Placitis Willelmi Basset et Alani de Nevill junioris. *Ib. Rot. 6. b. War. et Legrec.*

De Placitis Widonis Decani, et Reginaldi de Warennæ, et Willelmi Basset, et Alani de Nevill junioris. *Ib. Rot. 7. a. Lincolnscira.*

De Placitis Archidiaconi Pictaviæ, et Widonis Decani, et Reginaldi de Warennæ, et Willielmi Basset. *Ib. Rot. 7. b. Cantebr. et Hunt.*

Ib. Rot. 8. a. Essexæ et Hurtsf.

Ib. Rot. 8. b. Sudsexæ.

De Placitis Archidiaconi Pictaviæ, et Widonis Decani, et Reginaldi de Warennæ, et Henrici filii Geroldi Camerarii. *Ib. Rot. 9. a. Chent.*

Ib. Rot. 9. b. Surreia, et Lundonia et Midd.

Mag. Rot. prædicti anni 17. passim.

This refers to
p. 275. of
this vol.

N^o XII.

From Benedict. Abbas, t. i. p. 136.

*“ Hæ sunt Assise factæ apud Clarendune, et postea
“ recordatæ apud Northamptoniam.*

*“ SI quis rectatus fuerit coram Justiciariis Do-
“ mini Regis de Murdro, vel Latrocinio, vel
“ Roberia, vel Receptatione hominum talia facien-
“ tium, vel de Falsoneria, vel iniqua Combustione,
“ per Sacramentum duodecim Militum de Hun-
“ dredo, et, si Milites non adfuerint, per Sacra-
“ mentum duodecim Liberorum Legalium homi-
“ num, et per Sacramentum quatuor de unaqua-
“ que Villa Hundredi, eat ad Judicium Aquæ;
“ et si perierit, alterum Pedem amittat, Et apud
“ Northamptoniam additum est, pro rigore Justi-
“ ciæ, quod dexterum similiter pugnam cum pede
“ amittat, et Regnum abjuret, et infra quadra-
“ ginta*

“ ginta dies à Regno exulet. Et si ad Aquam
 “ mundus fuerit, inveniat Plegios, et remaneat in
 “ Regno, nisi rectatus fuerit de Murdro, vel alia
 “ turpi Felonia, per commune Comitatus et le-
 “ galium Militum Patriæ: de quo, si prædicto
 “ modo rectatus fuerit, quamvis ad Aquam salvus
 “ fuerit, nichilominus infra quadraginta dies à
 “ Regno exeat, et Catalla sua secum asportet,
 “ salvo jure Dominorum suorum, et Regnum
 “ abjuret, in Misericordia Domini Regis. Hæc
 “ autem Assisa attenebit à tempore, quo Assisa facta
 “ fuit apud Clarendone, continue usque ad hoc
 “ tempus; et amodo, quam diu Domino Regi pla-
 “ cuerit, in Murdro, et Proditione, et iniqua Com-
 “ bustione, et in omnibus prædictis Capitulis, nisi
 “ in Minutis Furtis et Roberiis, quæ facta fuerunt
 “ tempore Guerræ, sicut de Equis, et Bobus, et
 “ minoribus rebus.

“ Item, nulli liceat, neque in Burgo neque in
 “ Villa, hospitari aliquem Extraneum, ultra unam
 “ noctem, in domo sua, quem ad Rectum habere
 “ voluerit; nisi Hospitatus ille Essonium rationa-
 “ bile habuerit, quod Hospes domûs monstret vi-
 “ cinis suis. Et cum recesserit, coram Vicinis re-
 “ cedat, et per Diem.

“ Si quis saisitus fuerit de Murdro, vel Latro-
 “ cinio, vel Roberia, vel Falsoneria, et inde sit
 “ cognoscens, vel de aliqua alia Felonia, quam fe-
 “ cerit coram Præposito Hundredi vel Burgi, et
 “ coram Legalibus Hominibus; id postea coram
 “ Justitiis negare non poterit. Et si idem sine
 “ saisina coram eis aliquid hujusmodi recognoverit,
 “ hoc simul coram Justitiis negare non poterit.

“ Item, Si quis obierit Francus-tenens, Heredes
 “ ipsius remaneant in tali Saisina, qualem Pater
 “ suus habuit die, qua fuit Vivus et Mortuus, de
 “ Feodo suo: et Catalla sua habeant, unde faciant

“ divisam defuncti. Et Dominum suum postea re-
 “ quirant, et ei faciant de Relevio, et aliis, quæ ei
 “ facere debent de feodo suo. Et si heres fuerit
 “ infra ætatem, Dominus Feodi recipiat Homa-
 “ gium suum, et habeat in Custodia illum quam-
 “ diu debuerit. Alii Domini, si plures fuerint,
 “ Homagium ejus recipiant, et ipse faciat eis quod
 “ facere debuerit. Et uxor defuncti habeat dotem
 “ suam, et partem de Catallis ejus, quæ eam con-
 “ tingit. Et si Dominus Feodi negat Heredibus de-
 “ functi Saisinam ejusdem defuncti, quam exigunt,
 “ Justiciæ Domini Regis faciant inde fieri recogni-
 “ tionem per duodecim Legales Homines, qualem
 “ Saisinam defunctus inde habuit, diē qua fuit
 “ Vivus et Mortuus. Et, sicut recognitum fuerit,
 “ ita Heredibus eis restituant. Et si quis contra
 “ hoc fecerit, et inde Attaintus fuerit, remaneat in
 “ Mitericordiā Regis.

“ Item, Justiciæ Domini Regis faciant fieri Re-
 “ cognitionem de Dissaisinis factis super Assisam,
 “ à tempore quo Dominus Rex venit in Angliam,
 “ proximo post Pacem factam inter Ipsum, et Re-
 “ gem filium suum.

“ Item, Justiciæ capiant Domini Regis Fide-
 “ litates intra Clausum Pascha, et ad ultimum infra
 “ Clausum Pentecosten, ab omnibus, scilicet Co-
 “ mitibus, Baronibus, Militibus, et Libere-tenen-
 “ tibus, et etiam Rusticis, qui in Regno manere
 “ voluerint. Et qui facere noluerit Fidelitatem,
 “ tanquam inimicus Domini Regis capiatur. Ha-
 “ bent etiam Justiciæ præcipere, quod omnes illi,
 “ qui nondum fecerunt Homagium & Ligantiam
 “ Domino Regi, quod ad terminum, quod eis
 “ nominabunt, veniant, et faciant Regi Homa-
 “ gium et Ligantiam sicut Ligio Domino.

“ Item, Justiciæ faciant omnes Justicias et Rec-
 “ titudines spectantes ad Dominum Regem, & ad
 “ Coronam

“ Coronam suam, per Breve Domini Regis, vel
 “ illorum qui in loco ejus erunt, de feodo dimidii
 “ Militis et infra; nisi tam grandis sit querela,
 “ quod non possit deduci sine Domino Rege, vel
 “ talis, quam Justitiæ ei reportent pro dubitatione
 “ sua, vel ad Illos qui in loco ejus erunt. Inten-
 “ dant tamen, pro posse suo, ad Commodum Do-
 “ mini Regis faciendum. Facient etiam Assisam
 “ de Latronibus iniquis et Malefactoribus terræ:
 “ (quæ Assisa est per Consilium Regis, filii sui,
 “ et Hominum suorum) per quos ituri sunt Comi-
 “ tatus.

“ Item, Justitiæ provideant, quod Castella di-
 “ ruta prorsus diruantur, et diruenda bene proster-
 “ nantur. Et nisi hoc fecerint, Dominus Rex Ju-
 “ dicio Curiae suæ de eis habere voluerit, sicut de
 “ Contemptoribus Præcepti sui.

“ Item, Justitiæ inquirent de Excaetis, de Ec-
 “ clesiis, de Terris, de Feminis, quæ sint de Do-
 “ natione Domini Regis.

“ Item, Baillivi Domini Regis respondeant ad
 “ Scaccarium, tam de Assiso Redditi, quam de
 “ omnibus Perquisitionibus suis, quas faciunt in
 “ Baillis suis. Exceptis illis, quæ pertinent ad
 “ Vicecomitatum.

“ Item, Justitiæ inquirent de Custodiis Castel-
 “ lorum, et qui, et quantum, et ubi eas debeant;
 “ et postea mandent Domino Regi.

“ Item, Latro ex quo capitur, Vicecomiti tra-
 “ datur ad custodiendum. Et si Vicecomes absens
 “ fuerit, ducatur ad proximum Castellatum, et
 “ ipse illum custodiat, donec illum liberet Vice-
 “ comiti.

“ Item, Justitiæ faciant quærere per Consue-
 “ tudinem Terræ illos, qui à Regno recesserunt.
 “ Et nisi redire voluerint infra terminum nomi-
 “ natum, et stare ad Rectum in Curia Domini
 “ Regis,

BOOK IV. "Regis, postea Utlagentur; et Nomina Utlagorum afferant ad Pascha, et ad festum Sancti Michaelis, ad Scaccarium, et exinde mittantur Domino Regi."

This refers to
p. 282. of
this vol.

N^o XIII.

From the Transcript in Selden's Notes to Eadmerus, p. 193, 194.

WILLIELMUS Dei Gratia Rex Anglorum, Omnibus ad quos scriptum hoc perveniet salutem et amicitiam. Mando et præcipio per totam Angliæ nationem custodiri; Si Anglicus homo^a compellet aliquem Francigenam per bellum de furto vel homicidio vel aliqua re pro qua bellum fieri debeat vel iudicium inter duos homines, habeat plenam licentiam hoc faciendi. Et si Anglicus bellum noluerit, * Francigena compellatus adlegiet se iurejurando contra eum per suos testes secundum legem Normanniæ. Item si * Francigena compellat Anglicum per bellum de eisdem rebus, Anglicus plena licentia defendat se per bellum, vel per^b iudicium, si magis ei placeat. Et si^c uterque sit invalidus, et nolit bellum vel non^d possit, quærat sibi legalem defensorem. Si Francigena victus fuerit, persolvat Regi lx s. Et si Anglicus nolet defendere se per bellum vel per testimonium, adlegiet se per Dei^e iudicium. De omnibus utlagariis rebus Rex instituit, ut Anglicus se purget^f ad iudicium. Et si Anglicus appellat

^a compellat
Brompton,
Chron. col.
982.

^b ferrum
Wilkins.

^c Ille Wilkins.

^d possit
Brompton,
Wilkins.

^e ferrum
Wilkins.

^f per ferrum
Wilkins.

* In the Copy given by Wilkins, it stands thus: "Francigena compellans Anglum purget se in iurejurando testes secundum Legem Normanniæ." But the sense is much better as I have given it here from Selden.

Francigenam

Francigenam de utlagaria, et hoc super eum inveri-
tare velit, defendat se Francigena per bellum. Et BOOK IV.
si Anglicus non audeat ² enim probare per bellum, ² *Eum compellere ad bellum.*
defendat se Francigena pleno juramento, non in
verborum observantiis.

N^o XIV.

This refers to
p. 283. of
this vol.

From Wilkins, p. 229.

DECRETUM est etiam ibi, ut si Franci-
gena appellaverit Anglum de perjurio, aut
murdro, furto, aut homicidio, ^a *Ran*, quod dicunt ^a *Ibidem, p.*
apertam rapinam, quæ negari non potest, Anglus ^{218. Aut}
se defendat per quod melius voluerit, aut iudicio ^{*Ran, quod di-*}
ferri, aut duello. Si autem Anglus infirmus fuerit, ^{*citur aperta*}
inveniat alium qui pro eo faciat. Si quis eorum ^{*rapina.*}
victus fuerit, emendet Regi xl solidos. Si autem
Anglus Francigenam appellaverit et probare vo-
luerit iudicio aut duello, volo tunc Francigenam
purgare se sacramento non ^b fracto.

^b *ferro* Hoveden.

N^o XV.

This refers to
p. 289 of
this vol.

From Wilkins, p. 229.

INTERDICIMUS etiam ne quis occidatur,
vel suspendatur pro aliqua culpa; sed enerventur
oculi, et abscindantur pedes, vel testiculi, vel ma-
nus, ita quod truncus remaneat vivus in signum
proditionis, et nequitie suæ: secundum enim quan-
titatem delicti debet poena maleficis infligi. Ista
præcepta

BOOK IV. *præcepta non sint violata super forisfacturam nostram plenam. Testibus, &c.*

This refers to
p. 319. of
this vol.

N° XVI.

From Rymer's Fœdera, p. 36.

A. D. 1174.

An. 20 H. II.
L. B.

HENRICUS Dei gratia Rex Angliæ, Dominus Hiberniæ, Dux Normanniæ, Aquitaniæ, Comes Andegaviæ, Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Justiciariis, Vicecomitibus, Præpositis, Ministris, et omnibus Ballivis et Fidelibus suis, salutem. Sciatitis quod pro salute animæ nostræ et animarum Antecessorum et Hæredum nostrorum, et ad malas consuetudines abolendas concessimus, & hac Carta nostra confirmavimus pro nobis et Hæredibus nostris in perpetuum, quotiescumque de cætero contigerit aliquam navem periclitari in potestate nostra, sive in Costera Maris Angliæ, sive in Costera Pictaviæ, sive in Costera Insulæ Oleronis, sive in Costera Wasconix, et de navi taliter periclitata aliquis homo vivus evaserit et ad terram venerit, omnia bona et catalla in navi illa contenta remaneant et sint eorum quorum prius fuerunt, et eis non dependantur nomine Wrecci. Et si de navi taliter periclitata nullo homine vivo evadente contingat quamque bestiam aliam vivam evadere, vel in navi illa vivam inveniri, tunc bona et catalla illa per manus Ballivorum nostrorum, vel Hæredum nostrorum, vel per manus Ballivorum ipsorum, in quorum terra navis fuerit periclitata, liberentur quatuor probis hominibus custodienda usque ad terminum trium mensium, ut si illi, quorum catalla illa fuerint, infra terminum illum venerint ad exigendum

gendum catalla illa, et probare possint ipsa catalla sua esse, eis liberentur quieta. Si vero infra prædictum terminum nullus veniret ad exigendum catalla illa, tunc nostra sint et Hæredum nostrorum nomine Wrecci, vel alterius qui libertatem habuerit Wreccum habendi. Si vero de navi periclitata taliter nullus homo vivus evaserit, nec alia bestia sicut prædictum est, tum nona et catalla in navi illa contenta nostra sint et Hæredum nostrorum nomine Wrecci, vel alterius ubi navis fuerit periclitata, qui libertatem habuerit Wreccum habendi. Quare volumus et firmiter præcipimus pro nobis et Hæredibus nostris, quod, quotiescunque de cætero contingeret aliquam navem periclitari, in potestate nostra, sive in Costera Maris Angliæ, sive in Costera Pictaviæ, sive in Costera Insulæ Oleronis, sive in Costera Wasconia, et de navi taliter periclitata aliquis homo vivus evaserit et ad terram venerit, omnia bona et catalla in navi illa contenta remaneant, et sint eorum quorum prius fuerint, et eis non deperdantur nomine Wrecci. Et si de navi taliter periclitata, nullo homine vivo evadente, contingat quamcumque bestiam aliam vivam evadere, vel in navi illa vivam inveniri, tunc bona et catalla illa per manus Ballivorum nostrorum, vel Hæredum nostrorum, vel per manus Ballivorum ipsorum, in quorum terra navis fuerit periclitata, liberentur quatuor probis hominibus custodienda usque ad terminum trium mensium, ut si illi, quorum catalla illa fuerint, infra terminum illum venerint ad exigendum catalla illa, et probare possint ipsa catalla sua esse, eis liberentur quieta. Si vero infra prædictum terminum nullus venerit ad exigendum catalla illa, tunc nostra sint et Hæredum nostrorum nomine Wrecci, vel alterius qui libertatem habuerit Wreccum habendi. Et si de navi illa taliter periclitata nullus homo vivus evaserit, vel
alia

BOOK IV. alia bestia sicut prædictum est, tunc bona & catalla, in navi illa contenta, nostra sint et Hæredum nostrorum nomine Wrecci, vel alterius, ubi navis fuerit periclitata, qui libertatem habuerit Wrecum habendi, sicut prædictum est. Hiis Testibus,

Venerabili Patre W. Karleol. Episcopo.

W. Valentin. Electo.

J. Com. Linc. et Constabular. Cestriæ.

Petro de Malo Lacu.

Henr. de Trublevill. tunc Senescall Wasconia.

Hug. Dispens.

Godefrido de Sancumb.

Amaur de Sancto Amando.

Willelmo de Beel.

Galfr. Dispens.

Galfrido de Cauz.

Barth. Pech.

Johanne Guband, et aliis.

Datum per manum venerabilis Patris Radulphi Cycestr. Episcopi, Cancellar. nostri, apud Merewell. vicesimo sexto die Maii, Anno Regni nostri vicesimo.

These were
promised to
the Reader in
the Appendix
to vol. I. p.
471.

Nº XVI.

Transcribed from Wilkins, p. 219.

I.

PAX Sanctæ Ecclesiæ. Cujuscunque Foris-
facturæ quis reus sit hoc tempore, & venire
potest ad Sanctam Ecclesiam, Pacem habeat vitæ
& membri. Et si quis injecerit manum in eum
qui matrem Ecclesiam quæsierit, siue sit Abbatia,
siue

five Ecclesia Religionis, reddat eum quem abstulerit, & centum solidos nomine Forisfacturæ, et Matri Ecclesiæ Parochiali xx solidos, et Capellæ x solidos. Et qui fregerit pacem Regis in Merchenelega, centum solidis emendet; similiter de compensatione homicidii, & de insidiis præcogitatis *.

II.

Hæc placita pertinent ad Coronam Regis. Et si aliquis aut aliqua vexaverit, (molestaverit aut) malefecerit hominibus illius Ballivæ et de hoc sit attinctus per justitiam Regis, Forisfactura sit dupla illius quam alius quispiam forisfecerit †.

III.

Et qui in Danelega violaverit pacem Regis, cxliv libris emendet. Et Forisfacturæ Regis quæ pertinent ad Vicecomitem, xl solidi in Merchenelega, & l solidi in Westsexenelega. Et de libero homine qui habet Sac & Soc & Tol. & Tem & Infangentheof & implacitatus fuerit, & ad Forisfacturam, positus in Comitatu, pertinet Forisfactura ad opus Vicecomitis xl Oræ in Danelega, & de alio homine, qui ejusmodi Libertatem non habet, Oræ xxxii. De his xxxii oris habebit Vicecomes ad usum Regis oras decem, & is qui eum implacitaverit habebit in remedium versus eum

* In transcribing this statute I have altered some of the stops, which are evidently wrong and hurt the sense.

† This is obscurely worded; but the sense of it is, that for any ill treatment of the King's tenants in his bailliwick the forfeiture should be double to what it would be in the case of any other man. This, and some other statutes of William the First, here given, were not in use under Henry the Second, when Glanville's treatise was written.

BOOK IV. oras xii, & Dominus in cujus finibus manserit x oras. Hæc est in Danelega *.

IV.

P. 220.

Hæc est Consuetudo in Merchenelega, si quis appellatus fuerit de Latrocinio, seu de Furto, & plegiatus fuerit venire ad justiciam, & fugerit interim, Plegius ejus habebit iv menses & unum diem ad eum quærendum, & si possit eum invenire, juret se duodecima manu, quod tempore quo eum plegiavit Latro non fuerat, neque per eum esset quod fugerit, nec eum prehendere possit. Tunc reddat Catallum, & xx solidos pro capite, & iv denarios ei qui ceperit ipsum, & unum obolum pro inquisitione, & xl solidos Regi. In Westsexenelega c solidos ad clamorem pro Capite, & iv libras Regi. Et in Danelega, Forisfactura est viii libræ, xx solidi pro Capite, & vii libræ Regi. Et si is potest infra annum & iv dies invenire Latronem, & eum perducere ad justitiam, redhibebunt ei viginti solidos quos acceperint, & fiat justitia de Latrone.

V.

Is qui prehenderit Latronem absque secta & absque clamore, quem dimiserit ei cui damnum fecerit, & venerit postea, justitiam postulaturus, rationi conveniens est, ut det x solidos de † Henguite, & finem faciet justitiæ ad primam Curiam, & si confirmetur in Curia, absque licentia justitiæ, sit forisfactura de xc solidis.

* This law only shews the difference of the mulcts in different parts of the kingdom, as they had been established by the Danes or Saxons inhabiting there. Twelve oras made a pound.

† This word signifies a mulct for the escape of a robber.

VIII.

BOOK IV.

Si quis alium occiderit, & sit reus confitens, & emendare negaverit, det de suo Manbote Domino pro libero homine x solidos & pro servo xx solidos. Wera Thani est xx libræ in Merchenelega, & in West-Sexenelega. Et Wera Villani * c solidi in Merchenelega, atque etiam in West-Sexenelega.

IX.

Quod ad Weram attinet, primo reddat is qui est de nobili sanguine, Viduæ et Orphanis x solidos; et quod superest, Orphani et cognati inter se dividant.

X.

In Werâ reddere potuit quis Equum non castratum pro xx solidis, et Taurum pro x solidis, et Jumentum pro v solidis †.

XI.

Si quis alium percusserit, et negaverit ultra emendare, primo illi reddat caput suum (id est, capitis pretium, vulgo Wergildum) et illi percussor juret super Sancta quod aliter non potuerit facere, nec ex malitia quacunque ille fuerit in terram dejectus, id quod (causa) doloris est.

* I presume that *Villani* here must be understood to mean, not slaves, but farmers. *Wera* signifies the price of a man's life.

† These prices are remarkable, as they shew the high value of money in those days.

BOOK IV.

XII.

Si plaga alicui eveniat visui aperto, capite toto viso iv denarios det percussor, et de omni osse, quod quis traxerit ex plaga, osse toto viso, iv denarios; postea compositio ei fiat, secundum honores quos ei (os vel caput) fecerint; hoc cum fecerit, si cor suum ei benevolum monstraverit, et consilium suum ei donaverit, accipiat ab illo quod ei abstulerit *.

XIII.

Si acciderit ut quis pugnum cuiuspiam absciderit aut pedem, reddat ei medietatem Weræ, secundum id quod factum est. Sed pro pollice reddat medietatem manus. Pro digito qui pollicis proximus, xv solidos, de solido Anglicano, hoc est, quatuor denarios. Pro digito longo xvi solidos. Pro altero qui portat annulum, xvii solidos. Pro digito minimo v solidos. Si unguem quis præciderit, pro quolibet v solidos de solido Anglicano, et pro ungue digiti minimi iv denarios.

XIV.

Qui desponsatam alterius vitiaverit, forisfaciat Weram suam Domino suo.

XV.

Etiam qui falsum tulerit iudicium, Weram suam perdat, nisi super sacrosancta (Evangelia) probare poterit, se melius iudicare nescivisse.

* Some parts of this statute are obscure.

XVI.

BOOK IV.

Si quis alterum appellet de Latrocinio et is sit liber homo, et habeat exinde verum testimonium de legalitate, purget se per plenum sacramentum, et alter qui infamis ante fuerat per sacramentum nominatum, videlicet xiv homines legales; attamen si is habere eos poterit, purget se duodecima manu, et si habere non possit, se defendat per iudicium, et appellator iurabit (præter eum jurent vii homines nominati) quod propter malitiã non fecerit, nec propter aliam causam, quam quia jus suum persequeretur.

XVII.

Et si quis appellatus fuerit de fractione Monasterii aut Cubiculi, neque fuerit infamis a retro, se purget per xlii legales homines nominatos duodecima manu; et si alias infamia notatus fuerit, purget se per triplum, videlicet per xlviii homines legales nominatos trigesima sexta manu; et si illos habere nequierit, eat ad iudicium per triplum, si audeat ad triplex plenum sacramentum; et si is a retro Latrocinium emendavit, eat ad aquam (i. e. iudicium aquæ). Archiepiscopus habebit de forisfactura xl solidos in Merchenelega, et Episcopi xx solidos, et Comes xx solidos, et Baro x solidos, et Villanus xl denarios *.

XIX.

Qui fœminam vi compresserit, forisfacit membra sua. Qui prostraverit fœminam ad terram et ei

* Some parts of this and the former law are obscure.

BOOK IV. vim inferat, multa ejus Domino est x solidi. Si vero eam compresserit, forisfacit membra.

XX.

Qui retinet denarium S. Petri, denarium reddat per justitiam S. Ecclesiæ et xxx denarios, forisfacturæ. Et si de ea re est implacitatus per justitiam Regis, forisfaciat Episcopo xxx denarios, et Regi xl solidos.

XXI.

Si quis alteri oculum effodiat infortunio, emendet lxx solidis solidorum Anglicanorum. Et si visus ei restituatur, dimidium duntaxat reddatur.

XXV.

De Averio quod quis in manibus habet, qui velit postulare furto sublatum, et ille vult dare vadios et invenire plegios ad prosequendum appellum suum, tunc incumbit illi qui rem habuerit in manibus nominare warrantum suum, si eum habuerit; et si non habuerit eum, nominabit suum vadem primarium, et testes suos, et habebit eos ad diem, et ad terminum, si eos habeant aut eos habere poterit. [All the rest of this statute is so obscure, from the faults of the MS, or the obsolete terms, that I do not think it worth giving.]

XXVI.

De Murdro Francigenæ occisi, & homines hundredi nonprehendunt & ducunt ad justitiam infra viii dies ut ostendat ob quam causam fecerit, reddant Murdri nomine xlvii Marcas.

XXX.

XXX.

BOOK IV.

De tribus viis, videlicet Wetling-street, et Erming-street, et Fosse. Qui in aliqua harum viarum hominem itinerantem sive occiderit sive insilierit, is pacem Regis violat *.

XXXI.

Si Latrocinium sit inventum, in cujuscunque P. 225 terra sit, et latro simul, Dominus terræ et Uxor ejus habebunt medietatem bonorum Latronis, et venditores eorum Catalla si illa invenerint, et alteram medietatem, si repertum sit infra Sache et Soche, perdat Uxor, et Dominus habebit †.

XXXV.

Si morti damnata sit, aut membrorum mutilationi, foemina imprægnata, de ea non fiat justitia priusquam partuerit.

XXXVII.

Si pater deprehenderit filiam in adulterio in domo sua, seu in domo generis sui, bene licebit ei occidere adulterum ‡.

* I do not understand why more in these roads than elsewhere: for all homicides or assaults were breaches of the king's peace.

† I do not well understand the reason of the latter part of this statute.

‡ Mr. Tyrrell, in commenting upon this statute, expresses his surprize that it should not have given to the husband the power

BOOK IV.

XXXVIII.

Si quis ex necessitate alterum occiderit, aut, propter gubernationem faciliorem, ego jecero res tuas de navi ob metum mortis, de hoc non potes me implacitare. Nam licet alteri damnum inferre ob mortis metum, quando periculum evadere non potest; et si de hoc me accuses, quod ob metum mortis nihil feci * de hoc contemptu, et ea quæ in navi restant dividantur in communi secundum Catalla, et si quis jecerit Catalla extra navim absque necessitate, ea restituat.

XXXIX.

Duo sunt participes ejusdem pacis, et unus eorum implacitatus absque altero; si negligentia sua perdit, non inde debet damnum cedere alteri, qui absens fuit. Nam quod judicatum est inter eos non debet præjudicare iis qui absentes fuerunt.

XLI.

Caute prospiciant ii quibus cura incumbit judicia facere, et judicent uti petunt quando dicunt *dimitte nobis debita nostra*. Et prohibemus ut homo Christianum extra terram non vendat, nec præsertim in pa-

which it hath given to the father. I presume the husband had it by the common or customary law, which William the First did not abrogate; but made this addition to it for the better securing of the chastity of the wives of his barons and military tenants, and of those who held under them by knights service, when the husband should attend him in foreign wars.

* In this paragraph, as printed here from Wilkins, the sense is very imperfect. It may be a little mended by putting a full stop after *contemptu*, but will still remain obscure.

ganisnum.

ganisnum. Caveat homo quod quis animam ejus non perdat quam Deus vita sua redemit. Qui injuriam elevaverit, aut falsum judicium hinc proferet aut odii aut avaritiæ gratia, sit in forisfactura Regis de xl solidis; si non potest allegare quod plus recti facere noluerit, perdat libertatem suam, nisi juxta beneplacitum Regis illam ab eo redimere queat. Et si sit in Danelega, sit Forisfactura de Lahsute; si allegare non potest quod melius facere non voluerit et quod rectam legem et rectum judicium recusaverit, sit forisfactura erga illum ad quem jus hoc pertinuerit; hoc est, si sit erga Regem, vi libræ; si sit erga Comitem, xl solidi; si sit in Hundredo, xxx solidi, et erga omnes eos qui Curiam habent in Anglia, hoc est, juxta solidos Anglicanos. In Danelega qui rectum judicium recusaverit, sit is in misericordia de suo Lahsute, nec bene faciat querelam Regi de hoc quod quis ei defecerit in Hundredo aut in Comitatu *.

XLV.

Et qui retatus est, et testibus convictus de ^a *re-* ^a *deleauté* *bellione*, et implacitatus tribus vicibus vitavit, et ad ^{in the French} quartam vicem ostendat summonitor tria ejus crimina, nihilominus mandetur homini ut plegium inveniat, et veniat ad jus; et si nolit, si non viderit hominem vivum aut mortuum, capiat quantum habet et reddat petenti catallum suum, et Dominus habeat medietatem residui, et hundredum medietatem. Et si nullus parens aut amicus istam justiciam deforciasverint, forisfaciant erga regem vii li- ^{Q. deforciasverit.} bras. Et quærat latro quicquid poterit invenire, ^{rit.}

* The sense of this and the following statute seems to be greatly corrupted in several parts,

BOOK IV. non habeat warrantum de vita sua, nec per prohibitum placitum poterit aliquid recuperare.

XLVIII.

P, 227.

Et qui Latroni occurrerit, et sine clamore eum permiserit abire, emendet juxta valorem Latronis, aut se purget plena lege quod illum Latronem esse nescivit : et qui clamorem audierit et superfederit, superfessione Regis emendet aut seipsum purget.

L.

Si quis infra Hundredum incusatus fuerit, iv homines eum retineant, se duodecima manu purget, et si aufugerit pendente accusatione, dominus reddat Weram suam, et si dominus incusetur quod per eum abire permittitur, se purget sexta manu, et si non posset, emendet versus Regem, & sit utlagatus.

LIII.

V. Cart.
Regis Willielmi Con-
questoris de
quibusdam
statutis. Wil-
kins, p. 228.

Volumus autem et firmiter præcipimus, ut omnes homines, quos nobiscum adduximus aut post nos venerint, sint sub protectione et in pace nostra per universum regnum prædictum, et si quis de illis occisus fuerit, Dominus ejus habeat intra v dies homicidam ejus si poterit ; sin autem *, incipiat persolvere nobis xlvj marcas argenti quamdiu substantia Domini illius perduraverit. Ubi vero substantia

* Something seems to be wanting here.

Domini defecerit, totus hundredus in quo occisio
facta est communiter solvat quod remanet *.

The following statute was by mistake not inserted among the civil laws of William the Conqueror, given in the Appendix to the first volume, p. 464, et seq.

XXXVI.

Si quis intestatus obierit, liberi ejus hæreditatem æqualiter dividant.

This appears to have been changed by the prevalence of feudal principles over the old English customs in the time of Henry the Second. For military fiefs became impartible, and, with regard to chattels, Glanville says, “Cum quis vero intestatus decesserit, omnia catalla sua sui domini esse intelliguntur; si vero plures habuerit domini nos, quilibet illorum catalla sua recuperabit quæ in feodo suo reperiet.” L. vii. c. 16.

* This and some other statutes of this king were extraordinary precautions taken to prevent the murdering of foreigners whom he had brought over with him, or who came, upon his encouragement, to settle in England under his protection.

*The End of the APPENDIX to the FOURTH
BOOK.*

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